

NATIONAL LAW CENTER
ON HOMELESSNESS & POVERTY

Criminalizing Crisis:

The Criminalization of Homelessness in U.S. Cities

A Report by the
National Law Center on Homelessness & Poverty

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ABOUT THE NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

The National Law Center on Homelessness & Poverty is committed to solutions that address the causes of homelessness, not just the symptoms, and works to place and address homelessness in the larger context of poverty.

To this end, it employs three main strategies: impact litigation, policy advocacy, and public education. It is a persistent voice on behalf of homeless Americans, speaking effectively to federal, state, and local policy makers. It also produces investigative reports and provides legal and policy support to local organizations.

For more information about the Law Center and to access publications such as this report, please visit its website at www.nlchp.org.

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Executive Summary

Since the National Law Center on Homelessness & Poverty (the Law Center) and the National Coalition for the Homeless released their last report on the criminalization of homelessness, *Homes Not Handcuffs*, in July 2009, the housing and homelessness crisis in the United States has deepened significantly.

In its 2010 survey of 27 large cities, the U.S. Conference of Mayors observed that 52 percent of cities have seen an increase in overall homelessness, while 58 percent have seen an increase in family homelessness. Further, across the surveyed cities, an average of 27 percent of homeless people were turned away from emergency shelter due to lack of space.¹

Despite the fact that communities all over the country lack adequate affordable housing and shelter space, cities are continuing to penalize people forced to live on our streets and in public spaces. Criminalization measures often prohibit activities like as sleeping/camping, eating, sitting, and/or begging in public spaces and include criminal penalties for violations of these laws. Some cities have even enacted restrictions that punish groups and individuals for serving food to homeless people. Many of these measures appear to be designed to move homeless persons out of sight, or even out of a given city.

Criminalizing Crisis, the Law Center's tenth report on the criminalization of homelessness,² provides an overview of the criminalization measures in place across the country, as well as guidance on how advocates can combat them and promote more constructive alternatives. The report summarizes the results of a national survey by the Law Center on the enforcement of criminalization measures across the country, as well as a survey of the particular laws in place in 234 cities and the changes in those laws since our 2009 report. *Criminalizing Crisis* reviews the costs and other impacts of criminalization and includes recommendations for policy change. The report concludes that criminalization measures do nothing to solve the problem of homelessness. Instead, they frequently perpetuate homelessness, place unnecessary burdens on our criminal justice system, and violate homeless individuals' civil and human rights. The report's comprehensive Advocacy Manual provides guidance and tools for advocates.

Types of Criminalization Measures

The criminalization of homelessness takes many forms, including:

- Enactment and enforcement of laws that make it illegal to sleep, sit, or store personal belongings in the public spaces of cities without sufficient shelter or affordable housing.

¹ The United States Conference of Mayors, Hunger and Homelessness Survey 2, 19 (Dec. 2010), available at <http://usmayors.org/pressreleases/uploads/2010HungerHomelessnessReportfinalDec212010.pdf>.

² NLCHP, *Go Directly to Jail: A report analyzing local anti-homeless ordinances* (1991) (nine cities); *The Right to Remain Nowhere: A report on anti-homeless laws and litigation* in 16 U.S. cities (1993); *No Homeless People Allowed: A report on anti-homeless laws, litigation and alternatives* in 49 U.S. cities (1994); *Mean Sweeps: A report on anti-homeless laws, litigation and alternatives* in 50 U.S. cities (1996); *Out of Sight, Out of Mind? A report on anti-homeless laws, litigation and alternatives* in 50 U.S. Cities (1999); National Coalition for the Homeless (NCH) and National Law Center on Homelessness & Poverty (NLCHP), *Illegal to Be Homeless: The criminalization of homelessness in the U.S.* (2002); *Punishing Poverty: The Criminalization of Homelessness, Litigation, and Recommendations for Solutions* (2003); NCH and NLCHP, *A Dream Denied: The Criminalization of Homelessness in U.S. Cities* (2006); NLCHP and NCH, *Homes Not Handcuffs: The Criminalization of Homelessness in U.S. Cities* (2009).

- Selective enforcement against homeless persons of seemingly neutral laws, such as loitering, jaywalking, or open container ordinances.
- Sweeps of city areas in which homeless persons live in order to drive them out of those areas, frequently resulting in the destruction of individuals' personal property, including important personal documents and medication.
- Enactment and enforcement of laws that punish people for begging or panhandling in order to move poor or homeless persons out of a city or downtown area.
- Enactment and enforcement of laws that restrict groups sharing food with homeless persons in public spaces.
- Enforcement of "quality of life" ordinances related to public activities and hygiene (e.g. public urination) when no public facilities are available to people without housing.

Prevalence of Laws that Criminalize Homelessness and Poverty

The Law Center surveyed 154 service providers, advocates, and people experiencing homelessness from 26 different states. The results of the survey indicate that the criminalization of homelessness continues to be a pervasive and persistent problem in communities across the country.

Respondents reported arrests, citations, or both for the following activities in their cities:

- Public urination/defecation: 73 percent of respondents;
- Camping/sleeping in public: 55 percent of respondents;
- Loitering: 55 percent of respondents;
- Panhandling: 53 percent of respondents;
- Public storage of belongings: 20 percent of respondents; and
- Sidewalk-sitting: 19 percent of respondents.

At the same time, more than 80 percent of respondents who reported restrictions on public camping/sleeping, urination/defecation, and/or storage of belongings, indicated that their cities lack sufficient shelter beds, public bathrooms, and/or free-to-low cost storage options for the personal belongings of homeless persons.

City ordinance are frequently tools for criminalizing homelessness. Of the 234 cities surveyed for our Prohibited Conduct Chart (in the Advocacy Manual Appendix):

- 40 percent prohibit "camping" in particular public places, while 16 percent prohibit "camping" citywide;
- 33 percent prohibit sitting/lying in particular public places;

- 56 percent prohibit loitering in particular public places, while 22 percent prohibit loitering citywide; and
- 53 percent prohibit begging in particular public places, while 53 percent prohibit “aggressive” panhandling and 24 percent prohibit begging citywide.

The trend of criminalizing homelessness continues to grow. Among the 188 cities reviewed for the prohibited conduct chart in both the 2009 report and this report, we identified the following increases in criminalization measures:

- 7 percent increase in prohibitions on begging or panhandling;
- 7 percent increase in prohibitions on camping in particular public places; and
- 10 percent increase in prohibitions on loitering in particular public places.

Impact of Criminalization on our Communities

When a city uses laws or policies to target homeless people for taking actions necessary to their survival, the impact is felt far and wide. While people experiencing homelessness are affected most profoundly, these measures also impact service providers’ ability to do their work and tax the already overburdened criminal justice system. Ultimately, punishing homeless people for conducting life-sustaining activities takes a toll on the entire community.

Survey respondents provided stories of how criminalization measures have impacted them and the people they serve. For example:

- “In 2006, in front of Fred Jordan [Mission], I was arrested for an outstanding warrant for a failure to appear in court. I was taken to jail for 90 days and during that time I lost my Section 8 and GR (general relief). Because I was gone from my apartment for 30 days, the manager labeled it abandonment, which stayed on my record. It took 4 years to get my housing back – I was homeless for 4 years.”

Roger Albert Romero, Los Angeles, CA

- “Toward the end of 2010, a family of two parents and three children that had been experiencing homelessness for a year and a half applied for a 2-bedroom apartment. The day before a scheduled meeting with the apartment manager during the final stages of acquiring the lease, the father of the family was arrested for public urination. The arrest occurred at an hour when no public restrooms were available for use. Due to the arrest, the father was unable to make the appointment with the apartment manager and the property was rented to another person. As of March 2011, the family was still homeless and searching for housing. Instead of taking a step forward and finally establishing a stable housing situation, the family’s homelessness continued due to this public urination arrest.”

Service Provider, Wenatchee, WA

- “One of my clients lost his identification in a homeless sweep (was confiscated, misplaced, and never recovered/more than likely it was thrown away by the police conducting the raid). This made it harder for us to assist him in accessing employment

opportunities (despite the fact he had several job interviews coming up) because we had to come up with money to get him a birth certificate AND new identification prior to the interviews. Accessing financial resources and ordering the birth certificate required more time than we had, so he missed out on some of the opportunities we had set up for him.”
Jessie McGraw, YWCA Salem, Salem, OR

Criminalization measures are also costly and drain limited public resources.

- In 2004, a study from The Lewin Group on the costs of serving homeless individuals in nine different cities across the U.S. found supportive housing to be the cheapest option in addressing the needs of homeless people when compared to jails, prisons, and mental hospitals. For several cities, supportive housing was also found to be cheaper than housing homeless individuals in shelters.³
- The Federal Strategic Plan to End Homelessness provides information from homelessness cost studies conducted between 2004 and 2009 in Atlanta, Chicago, Columbus, Denver, Los Angeles, Maine, Massachusetts, New York, Phoenix, Portland (Oregon), Rhode Island, San Francisco, and Seattle.⁴ The plan found that, on average, cities spend \$87 a day to jail a person, compared to \$28 a day for shelter.
- According to a study in Charlotte-Mecklenburg County, housing a person in the County jail costs approximately \$107 per night, whereas the cost of housing a person in a shelter in Charlotte ranged from \$16.50 to \$38 per night.
- The Greater Cincinnati Coalition for the Homeless analyzed the jail roster for Hamilton County Jails almost every day between August 28, 2006 and November 2, 2006. On average, 5.68 percent of the jail population was homeless and the jails were over capacity every day the data was collected. However, if those homeless individuals had not been arrested and jailed, the jail would not have been over capacity on any one of those days.
- Buncombe County, North Carolina followed 37 chronically homeless individuals over a three-year period and discovered that these individuals were arrested 1,271 times over three years, resulting in a total jail cost of \$278,000.⁵
- Utah’s largest homeless shelter, The Road Home, studied homelessness costs and found that the annual costs for a person in permanent supportive housing is about \$6,100. Then they studied the annual costs of shelter, jail, and hospital services and found them to be

³ The Lewin Group, Costs of Serving Homeless Individuals in Nine Cities: Chartbook, November 19, 2004, available at <http://www.rwjf.org/files/newsroom/cshLewinPdf.pdf>.

⁴ U.S. Interagency Council on Homelessness, Opening Doors: Federal Strategic Plan to Prevent and End Homelessness, at 18, available at http://www.usich.gov/PDF/OpeningDoors_2010_FSPPreventEndHomeless.pdf.

⁵ Looking Homeward: The 10-Year Plan to End Homelessness Asheville and Buncombe, NC, (2005) 24, available at

http://www.ashevillenc.gov/uploadedFiles/Residents/Housing_and_Neighborhood_Services/Homeless/10yearplan.pdf. For more information on efforts to end homelessness in North Carolina, contact the North Carolina Department of Health and Human Services available at <http://www.ncdhhs.gov/homeless/tenyearplan.htm>.

much higher: \$6,600 for shelter at the Road Home, \$25,500 in the Salt Lake County Jail, \$35,000 in the State prisons, and \$146,730 in the State Mental Hospital.⁶

- Even in instances where people do not have mental illnesses or disabilities, the cost of subsidized housing is still well below the cost of emergency shelter. In 2004, the Congressional Budget Office estimated the cost per housing voucher as \$7,028.⁷ In contrast, the cost of an emergency shelter bed funded by HUD's Emergency Shelter Grants program is approximately \$15,095, or about \$8,067 more than the average annual cost of a Section 8 Housing Certificate.⁸

Criminalizing homelessness is not only senseless from a policy perspective, but also runs counter to America's long history of valuing and protecting fairness and justice.

Legal Problems with Criminalization Measures

Criminalization measures raise constitutional questions, and many of them violate the civil rights of homeless persons. Courts have found certain criminalization measures to be unconstitutional. For example:

- Laws that restrict or penalize begging may raise free speech concerns, as courts have found begging to be protected speech under the First Amendment.
- When a city destroys a homeless person's belongings, such actions may violate the Fourth Amendment right to be free from unreasonable searches and seizures.
- When a city enforces a law that imposes criminal penalties on a homeless person for engaging in necessary life activities such as sleeping in public, such a law could violate that person's Eighth Amendment right to be free from cruel and unusual punishment if the person has nowhere else to perform the activity.
- When a city passes a loitering or vagrancy law that provides insufficient notice of what types of conduct it prohibits, or allows for arbitrary enforcement by law enforcement officials, such a law may be overly vague, in violation of the Constitution.
- In addition to violating domestic law, criminalization measures can also violate international human rights law.

Constructive Alternatives to Criminalization

While many cities are exacerbating the problem of homelessness by criminalizing it, some city initiatives work instead to address the underlying issues, such as a lack of available shelter space.

⁶ Utah Department of Community and Economic Development, Utah's Ten-Year Business Plan to End Homelessness, (2004) 6-7, available at <http://www.usich.gov/slocal/plans/utah.pdf>.

⁷ Center on Budget and Policy Priorities, New CBO Estimates Confirms Shortfall in Housing Voucher Funding (Aug. 29, 2003), available at <http://www.cbpp.org/cms/index.cfm?fa=view&id=2125>.

⁸ National Alliance to End Homelessness. The Costs of Homelessness (2010), available at http://www.endhomelessness.org/section/about_homelessness/cost_of_homelessness.

The following are examples of such approaches.

Domestic Examples

- **Portland, OR.** In 2006, Portland Commissioner Randy Leonard began the development of The Portland Loo, an innovative public bathroom that stays open 24-hours a day and is powered completely through solar energy. Currently, the City of Portland has a Loo in place in four separate locations. Providing a 24/7 public bathroom reduces the need for homeless people to resort to public urination or defecation and helps prevent the criminalization of this basic human need.
- **Seattle, WA.** In late 2010, the City of Seattle reversed a police policy that allowed law enforcement officials to ban individuals from private property open to the public, such as stores and coffee shops, for little or no reason. The reversal followed an advocacy campaign by local and national advocates (including the Law Center), and resulted in a new policy that will allow individuals to remain on these properties during business hours as long as they are not violating any of the business codes. The new guidelines will prevent many unnecessary and arbitrary arrests of homeless individuals.
- **Puyallup, WA.** In 2010, Puyallup passed an ordinance that allows religious organizations to host temporary encampments for homeless individuals. The ordinance was the result of an advocacy campaign, in which the Law Center participated, to address the persistent homeless sweeps and enforcement of anti-camping laws despite a clear lack of affordable housing or shelter space.
- **Minneapolis and Hennepin County, MN.** In January 2007, Hennepin County developed a 10-year plan to address homelessness. As part of the plan, the Street Outreach Program was created to connect homeless individuals with needed services and divert them from involvement with the criminal justice system. The program has succeeded in housing a number of individuals in addition to reducing the amount of public dollars spent on each homeless person.
- **Orlando, FL.** Once a month in Orlando, government agencies and local service providers come together for an event called IDignity, which helps homeless persons apply for various types of government identification. The most commonly applied-for are driver's licenses, Social Security cards, and birth certificates. The first IDignity event was held in May 2008; it has helped over 6,500 homeless individuals secure employment, housing, and public benefits.
- **National.** The 100,000 Homes Campaign, launched in July 2010, is a nationwide campaign to house 100,000 chronically homeless individuals by July 2013. The campaign is an initiative of Common Ground, and provides a framework that local advocates use to leverage housing resources in their communities. As of July 2011, over 10,300 individuals have been housed through the program.

Global Examples

- **Scotland.** In 2003, Scotland passed a law that creates an immediate right to temporary housing for involuntarily homeless people with certain priority needs, with the assumption that they will be moved within a year to permanent housing. Priority groups include those fleeing domestic abuse, disabled people, children, and those reentering society from the prison system. The priority needs test will be phased out by 2012, resulting in a right to housing for all homeless people.
- **Argentina.** In Argentina, the refugee and migrant group Movimiento Territorial de Liberación (MTL) received municipal funding to create a large-scale, mixed-housing project called the Monteagudo complex. MTL trained its own members to build the complex, and created retail and communal spaces in addition to housing.
- **Kenya.** Through a collaboration between residents of an informal settlement in Nairobi and architects, planners, surveyors, the city council, local universities, and local community organizations, settlement residents have been able to gain title to the land on which they live and construct homes for themselves.

Policy Recommendations

In addition to reviewing models from around the country and globe, cities can take concrete steps to ensure homeless persons' rights are protected and that more helpful approaches to homelessness are pursued. Such steps should include:

- Establishing a council that includes homeless persons, providers, and advocates to provide oversight of ordinances and practices that negatively impact homeless persons;
- Stopping the enactment of laws that criminalize homelessness;
- Establishing police and other protocols that ensure homeless persons' civil rights are protected;
- Conducting police trainings and establishing homeless liaisons within the police department to foster improved relationships between police and people experiencing homelessness; and
- Providing more affordable housing, supportive housing, and other resources so that people have less need to perform necessary and life-sustaining activities in public places.

While municipal governments must take actions to make sure homeless persons' rights and dignity are protected, the federal government should also play a significant role in discouraging local criminalization practices. In fact, in 2009 the U.S. Congress passed legislation, the Helping Families Save Their Homes Act of 2009, which requires the federal Interagency Council on Homelessness (ICH) to devise constructive alternatives to criminalization measures that can be used by cities across the country. While ICH has taken some initial steps, such as hosting a summit and releasing a report, to develop and promote these alternatives, more must be done to meet their mandate. Further actions should include:

- The U.S. Interagency Council on Homelessness hosting regional summits to involve more cities in a discussion around constructive alternatives to criminalization;

- Federal agencies leveraging federal funds to discourage criminalization, such as providing bonus points in applications for funding for communities that do not engage in criminalization and pursue alternate actions;
- Federal agencies preventing the use of federal grant funding to support criminalization at the state or local level;
- The Department of Justice investigating civil rights abuses of homeless persons in cities across the country to put a stop to such practices; and
- Federal agencies removing barriers for homeless individuals in accessing benefits and services, such as ensuring those eligible for the HUD-VASH voucher program are quickly identified and housed.

Ultimately, our communities must find a better way forward. Without putting a stop to the criminalization of homelessness, we have no hope of addressing the overwhelming need of the millions of Americans who lack a place to call home.

Introduction

Since the release by the National Law Center on Homelessness & Poverty (the Law Center) and the National Coalition for the Homeless of their last report on the criminalization of homelessness, *Homes Not Handcuffs*, in July of 2009, the housing and homelessness crisis in the United States has continued to worsen, particularly due to the economic and foreclosure crises. Of the 27 cities surveyed for the 2010 U.S. Conference of Mayors report on Hunger and Homelessness, 52 percent reported an increase in overall homelessness in 2010 and 58 percent reported an increase in family homelessness.⁹ The average increase of the total homeless population in those cities was 2 percent, with the number of homeless families increasing by 9 percent.¹⁰ Further, across the surveyed cities, an average of 27 percent of homeless people did not receive needed assistance, such as emergency shelter.¹¹

The 2009 Hunger and Homelessness Survey conducted by the U.S. Conference of Mayors painted a similar picture: 82 percent (22 of 27) of cities surveyed in 2009 reported having to make adjustments to accommodate an increase in the demand for shelter over the year; 25 percent of requests for emergency food assistance went unmet in 2009; and there was a 26 percent average increase in demand for hunger assistance, the largest average increase since 1991.¹² The 2010 Annual Homeless Assessment Report to Congress, whose numbers may be conservative, found that 38 percent of homeless individuals are unsheltered, living on the streets or another area unintended for human habitation.¹³

Both the economic crisis in general and the increased number of people being evicted from foreclosed properties have contributed to the growing homeless population.¹⁴ These changes further stress the resources of local service providers and increase demand for services.

The increase in demand has played out prominently at the local level. The San Francisco Coalition for the Homeless reported an increase in demand for services of 300 percent for families and 50 percent for individuals.¹⁵ From 2009 to 2010, Maricopa County, Arizona, saw a 27 percent increase in the number of families living on the street.¹⁶

Low-income families and individuals face great difficulty in finding affordable living spaces. There is currently no state in the U.S. where an individual working full-time at minimum wage can afford to rent an average 2-bedroom apartment at Fair Market Rent.¹⁷ Additionally, in 2009,

9 U.S. Conference of Mayors, Hunger and Homelessness Survey: A Status Report on Hunger and Homelessness in America's Cities, A 27-City Survey 2 (December 2010).

10 Id.

11 Id.

12 U.S. Conference of Mayors, Hunger and Homelessness Survey: A Status Report on Hunger and Homelessness in America's Cities—a 27-City Survey 7 (2009).

13 U.S. Department of Housing and Urban Development, The 2010 Homeless Assessment Report to Congress, available at <http://www.hudhre.info/documents/2010HomelessAssessmentReport.pdf> (last visited Jul. 24, 2011).

14 For more information about renters living in foreclosed properties see: National Law Center on Homelessness & Poverty and National Low Income Housing Coalition, Without Just Cause: A 50-state Review of the (Lack of) Rights of Tenants in Foreclosure (2009).

15 Charity Crouse, Homeless Shelters Struggle to Meet Growing Demand For Services, El Telcolte, October 8, 2010, available at <http://eltecote.org/content/2010/10/homeless-shelters-struggle-to-meet-growing-demand-for-services/>.

16 Sean Holstege, Crowded Maricopa Shelter A Last Refuge For The Homeless, The Arizona Republic, November 5, 2010, available at <http://www.azcentral.com/community/phoenix/articles/2010/11/05/20101105maricopa-countyhomelessshelter-overcrowding.html>.

17 National Low Income Housing Coalition, Out of Reach 2011, 5 (May 2011), available at <http://www.nlihc.org/oor/oor2011/introduction.pdf>.

adequate affordable housing units were only available to 32 percent of extremely low-income (ELI) renters, while high-income renters occupy 42 percent of all affordable housing units for ELI renters.¹⁸

In fact, the lack of available affordable housing, shelter and other resources has become so dire that some service providers and cities are recognizing that the only option left for people experiencing homelessness to live is outside. In recognition of the lack of available shelter space, the city council in Puyallup, Washington, laudably passed an ordinance in September 2010 to allow religious organizations to host temporary encampments.¹⁹ In a more precarious example from April 2011, a service provider in Paducah, Kentucky sent a pregnant woman and her husband and three kids to a tent city in the woods after informing them there was no shelter space available for them.²⁰ These are only a couple of examples of the growing number of people forced to live outside in encampments around the country.²¹

Despite the fact that communities all over the country do not have adequate affordable housing or shelter space, cities are continuing to penalize people forced to live on our streets and in our public spaces. Such measures often prohibit activities such as sleeping/camping, eating, sitting, and/or begging in public spaces, and include criminal penalties for violations of these laws. Some cities have even enacted restrictions that punish groups and individuals for serving food to homeless people. Many of these measures appear to have the purpose of moving homeless people out of sight, or even out of a given city.

Given the dire lack of adequate affordable housing and shelter space in cities across the country, laws that penalize homeless people for engaging in activities needed for survival while in public places essentially criminalize the status of being homeless.

This report, the Law Center's tenth report on the topic, provides a picture of the criminalization measures in place across the country, as well as guidance on how advocates can combat them and promote more appropriate alternatives.

Even while the criminalization of homelessness is on the rise, the results of our research and that of others indicate that criminalizing homelessness does nothing to solve the problem of homelessness. Not only is criminalizing homelessness an affront to the human rights and dignity of homeless persons, these measures can also make it substantially more difficult for homeless persons to secure permanent housing and employment. Criminalizing homelessness also wastes scarce public resources.

Persisting with this approach makes no sense from a policy perspective and can violate individuals' rights under domestic law and international human rights law.

¹⁸ Id. at 3.

¹⁹ Sara Schilling, Puyallup Oks Small Tent Cities for Homeless, The News Tribune, September 30, 2010 available at <http://www.thenewstribune.com/2010/09/30/1362343/puyallup-oks-small-tent-cities.html>.

²⁰ Jason Hibbs, With Shelters Full, Homeless Family Sent to Woods Instead, Local 6 WPSD, April 7, 2011, available at <http://www.wpsdlocal6.com/news/local/No-room-for-families-at-shelters-sent-to-woods-instead-119448789.html>.

²¹ Associated Press, In hard times, tent cities rise across the country, September 18, 2008, MSNBC.com, available at http://www.msnbc.msn.com/id/26776283/ns/us_news-life/.

If cities are concerned about their residents living on the streets and in public spaces, there are alternative, more productive ways of dealing with the issue of homelessness. A number of cities here in the U.S. and abroad have found ways to humanely and positively approach street homelessness. Our report includes examples that can serve as models for cities across the country. In addition, cities can take concrete steps to institute policies and procedures that ensure homeless people's rights are protected. Further, our report includes suggestions for how the federal government can play a role in discouraging criminalization.

In addition to providing information about the criminalization of homelessness, this report includes an advocacy manual to help advocates, service providers, attorneys, and homeless people combat such counterproductive laws and policies. The report provides information on legal and non-legal strategies they can use in their own communities.

Our communities must find a better way forward if we have any hope of addressing the overwhelming number of Americans facing homelessness. Without putting a stop to the criminalization of homelessness, our cities and our country do not have a chance of successfully tackling this moral, social, economic, and human rights problem. Ultimately, our society can be measured by the justice and humaneness with which our communities treat our most vulnerable neighbors.

Survey Results

In March and April 2011, the National Law Center on Homelessness & Poverty conducted a nation-wide survey of homeless service providers, advocates, and homeless individuals about criminalization practices within their cities. Overall, the survey results show that laws targeting homeless individuals are widespread throughout the United States, though some respondents included information about more positive approaches to homelessness as well.

While some areas of the country are overrepresented in the survey data, the results of the survey provide a snapshot of the kinds of measures that are in place around the country.

Profile of Respondents

The Law Center received 154 responses to the survey from people in 26 different states. Of individuals who answered the survey, 43 percent were advocates for homeless people, 51 percent were service providers, and 6 percent indicated that they are currently or formerly homeless. Respondents included advocacy coalitions, community development organizations, housing providers, shelters, religious groups, health authorities, substance abuse support services, employment services, outreach workers, meal distributors, and others.

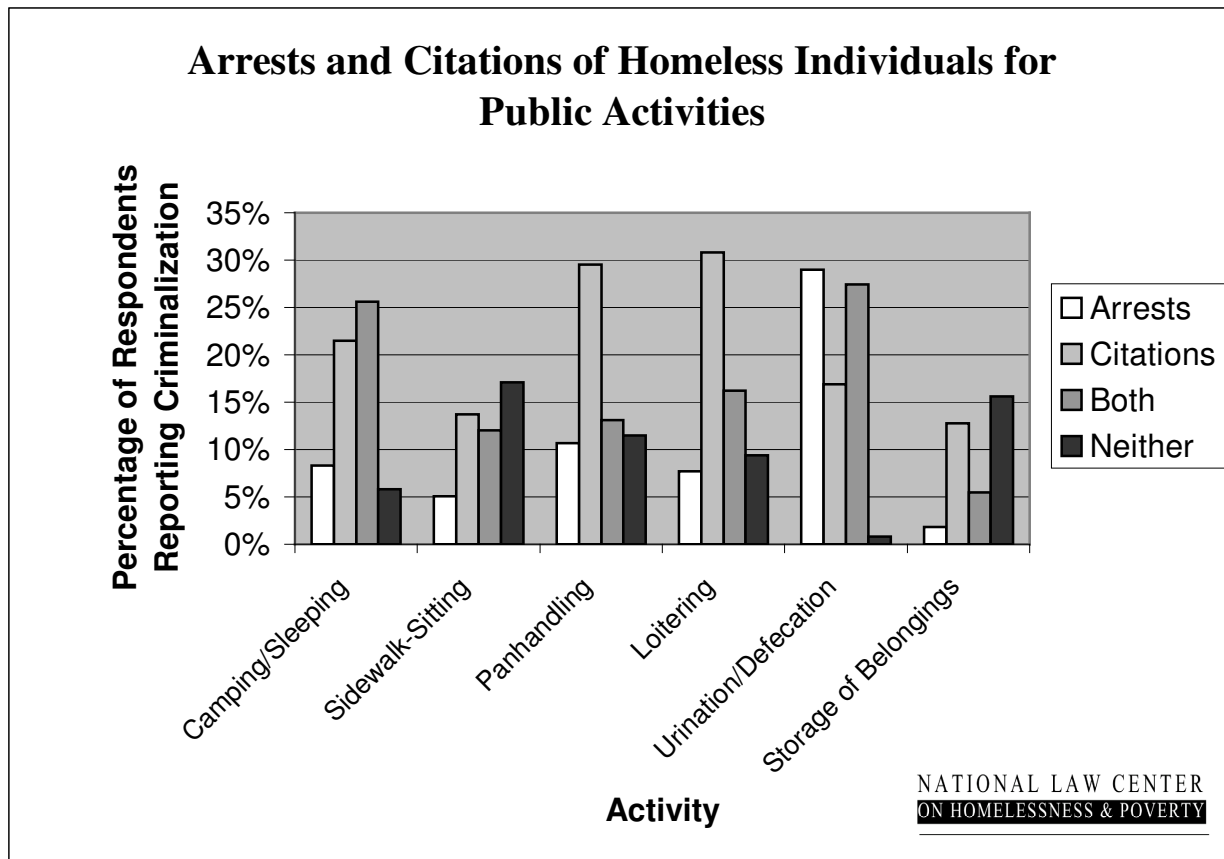
Prevalence of Criminalization Practices

Over 50 percent of respondents indicated that their cities enforce laws targeting homeless people in each of the following categories: camping/sleeping in public, panhandling, and loitering. Though not criminalized as frequently, 33 percent of individuals indicated that their city maintains restrictions on sidewalk-sitting, and another 34 percent cited restrictions on public storage of belongings.

The survey also asked participants to report on arrests and citations for criminalized activities. The percentages of respondents who reported arrests, citations, or both for certain activities in their cities are as follows:

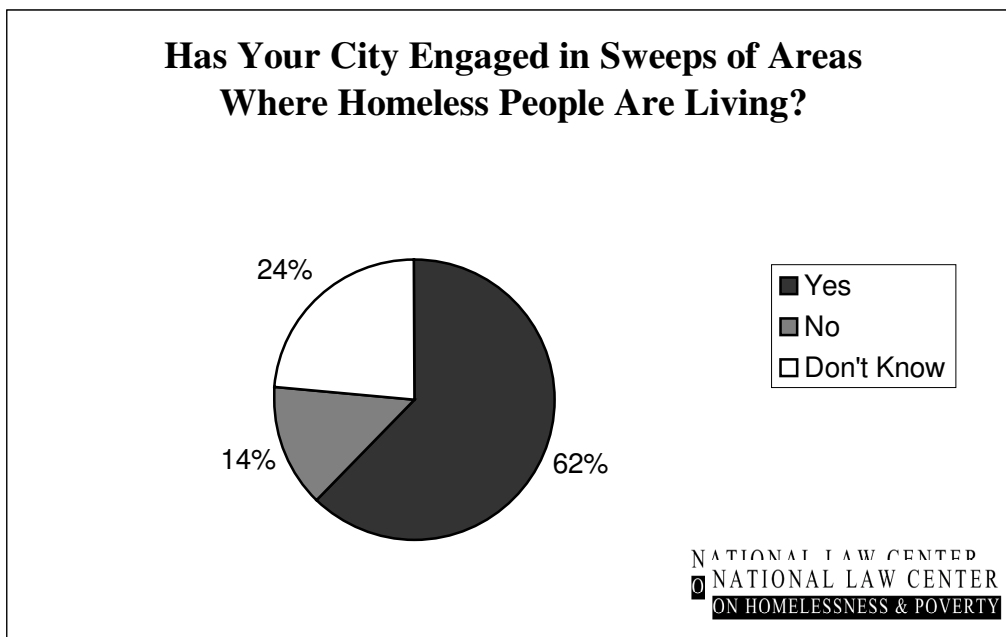
- Public urination/defecation: 73 percent;
- Camping/sleeping in public: 55 percent;
- Loitering: 55 percent;
- Panhandling: 53 percent;
- Public storage of belongings: 20 percent; and
- Sidewalk-sitting: 19 percent.

Of the respondents that indicated enforcement of the above ordinances in their cities, the breakdown of arrests and citations issued for those violations are reflected in the chart below.

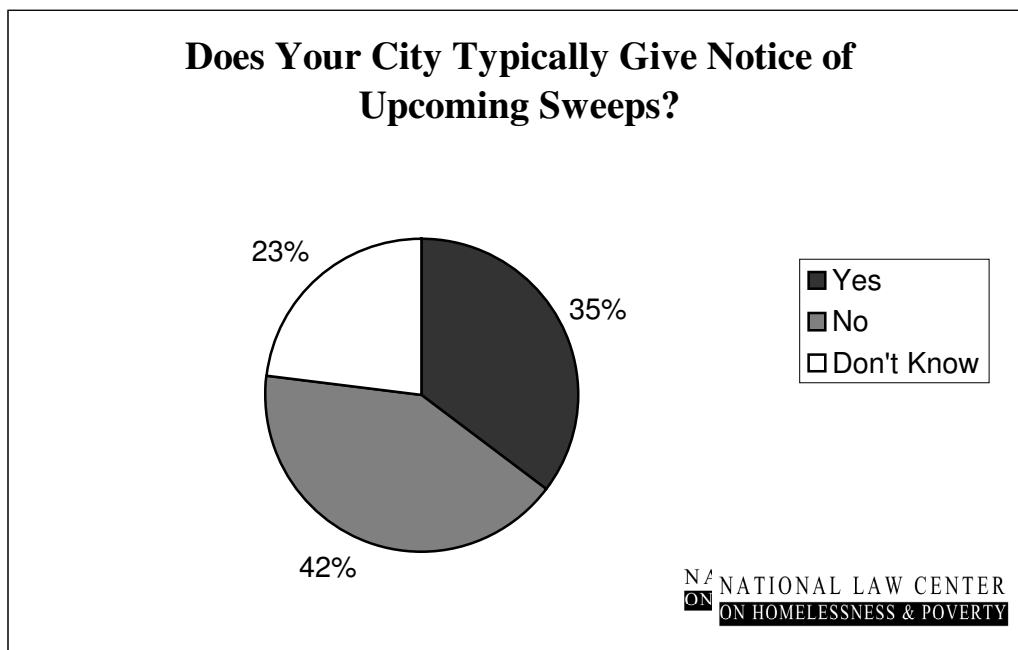


When asked whether homeless individuals are disproportionately targeted by law enforcement, 65 percent of respondents said that they believed homeless people are more likely than other individuals to be given citations and/or arrested for similar violations. Of that 65 percent of respondents, over 70 percent felt that homeless individuals are disproportionately criminalized in each or all of the following categories: violation of open container and/or public intoxication laws, loitering, and public urination/defecation.

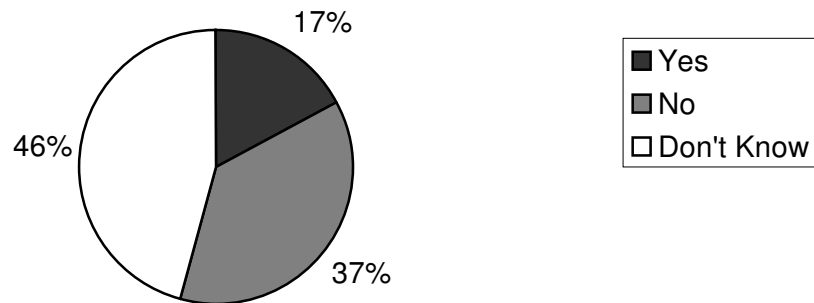
Many of the respondents indicated that their cities perform sweeps of homeless encampments in addition to criminalizing the activities of homeless individuals:



Of the respondents who reported sweeps in their city, many said that their community does not give notification before performing a sweep or retain the belongings of homeless individuals after a sweep. Lack of notification before a sweep and destruction of property without opportunity for retrieval has generally been found to be unconstitutional:



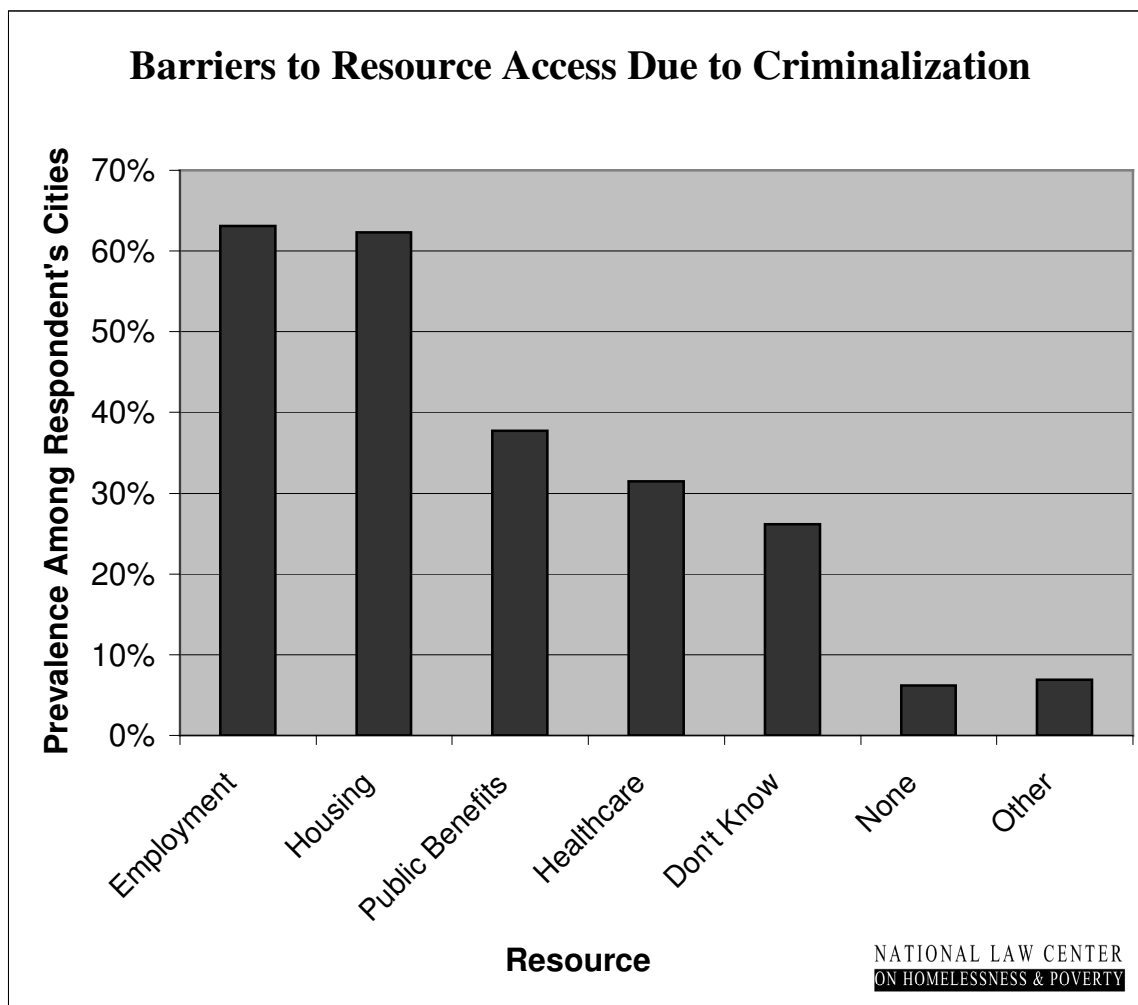
**Does Your City Retain the Belongings of Homeless
Individuals for Retrieval After a Sweep Has
Occurred?**



NATIONAL LAW CENTER
ON HOMELESSNESS & POVERTY

Consequences of Criminalization

Many respondents reported that measures to criminalize homelessness have made it more difficult for homeless individuals to access community resources:



Homeless service providers who answered the survey commonly noted that criminalization measures have made it difficult for them to stay in contact with homeless individuals and establish a relationship with homeless individuals.

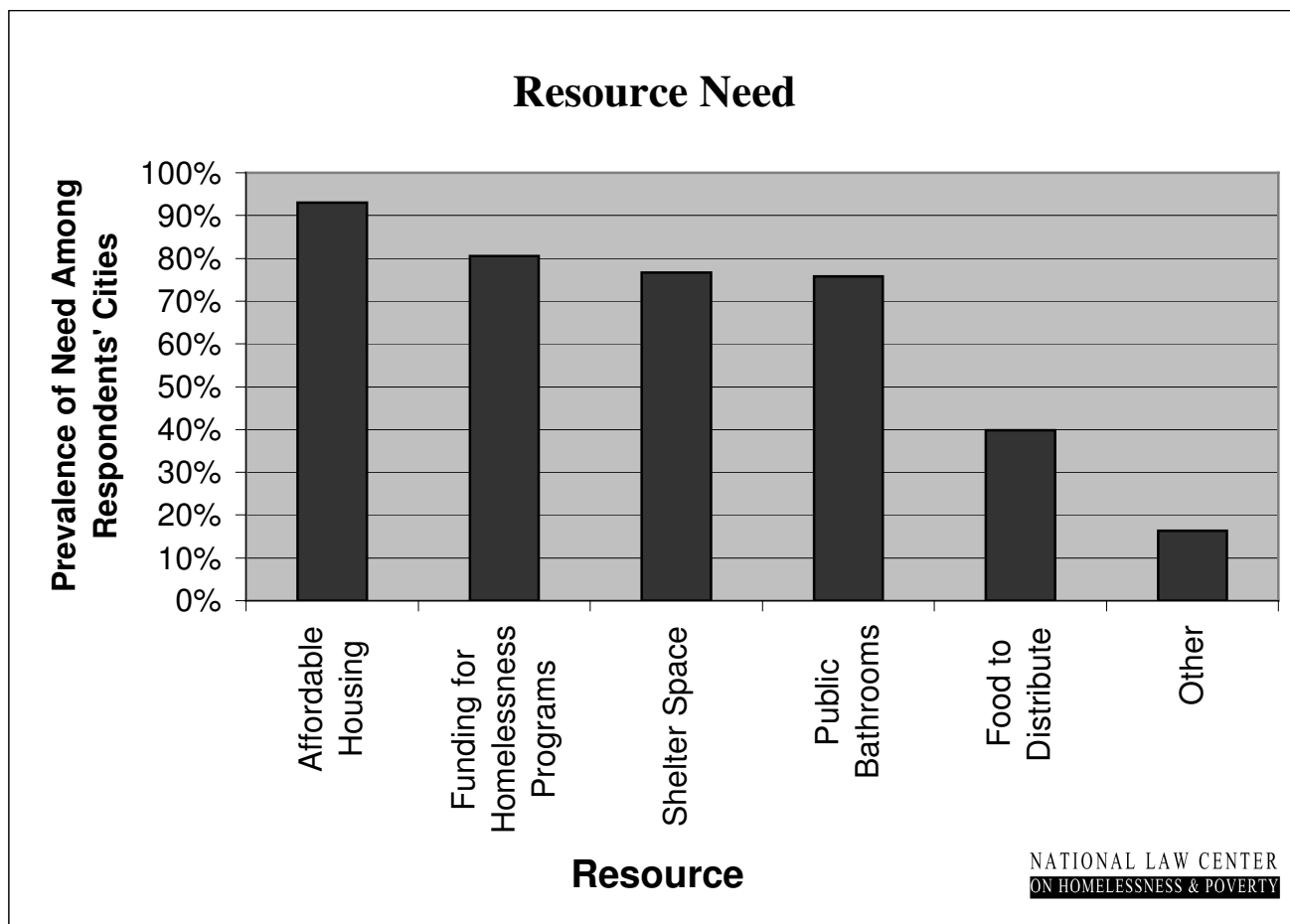
Additionally, of the respondents who reported sweeps in their cities, over 75 percent said that sweeps have forced homeless individuals to relocate to a new city or to another area within their city and that homeless individuals have lost valuables, medications, identification documents, or other personal items due to sweeps. Over 50 percent of respondents who reported sweeps said that sweeps have led homeless individuals to lose contact with homeless service providers.

Resource Need

Of survey participants who reported restrictions on public camping/sleeping, urination/defecation, or storage of belongings, over 80 percent indicated that their cities lack

sufficient resources in each of the following categories: shelter beds, public bathrooms, and free-to-low cost storage options for the personal belongings of homeless individuals that live outside.

When all respondents were asked what resources are needed for their city to more effectively address homelessness, they indicated need among several areas:



Additional Survey Information

Survey respondents also shared stories about the consequences of criminalization practices on specific individuals or families in their city. Several recurring themes appeared, including loss or theft of personal possessions (especially of identification documents) and difficulty in securing/maintaining housing or employment due to a criminal record from a criminalization-related citation or arrest. Several of those stories are included throughout this report.

Many survey respondents also reported that racial minorities are overrepresented in their cities' homeless populations.

Respondents also were asked a series of short-answer questions about homelessness in their city. When asked about positive practices that their cities engage in to address homelessness, some respondents spoke of police-community partnerships, development or expansion of homeless assistance centers and programs, and city plans for ending homelessness or developing more affordable housing units.

Conclusion

The results show that most cities surveyed are engaging in some form of criminalization practice and that many cities do not meet the needs of homeless individuals in their communities. Additional efforts to develop and implement constructive alternatives to criminalization will allow those cities to better serve their homeless populations.

Homeless Demographics

Individuals that are unfamiliar with homelessness issues may think the homeless population consists only of people who live out on our streets, in our parks, or in other public spaces. While these individuals are certainly an important subsection of the homeless population, many others experience homelessness in a situation that is invisible to the general public. This part of the homeless population may live in shelters, motels, or doubled up with family or friends.

Often, people may not realize that they attend school or work with someone experiencing homelessness, since homelessness happens for a wide number of reasons to people from a variety of backgrounds. When advocates educate the public about homelessness and put a human face on the issue, the rest of their community may develop a more compassionate response to those struggling to find a home.

Causes of Homelessness

A study conducted in 2009 and 2010 by the U.S. Conference of Mayors found that homelessness was caused by differing factors for different populations. In households with children, homelessness was most often due to unemployment, lack of affordable housing, poverty, low-paying jobs, and/or domestic violence. For homeless individuals without children, lack of affordable housing was the most prevalent cause of homelessness. The next most important causes were mental illness and/or substance abuse without access to needed services, and overall poverty.²²

Exorbitant housing costs present a large financial barrier to many people in the U.S., especially low-income individuals. Findings from the National Low Income Housing Coalition show that there is no state in the U.S. where an individual working full-time at minimum wage can afford an average two-bedroom apartment at Fair Market Rent.²³ Additionally, in 2009, adequate affordable housing units were only available to 32 percent of extremely low-income (ELI) renters, and high-income renters occupy 42 percent of all affordable housing units for ELI renters.²⁴

Some people may think that homelessness is due to psychological or moral impairment—essentially that factors of an individual’s personality or life choices are the largest reasons for homelessness. The research has shown this view to be incorrect. Educating people about this reality may make them less willing to judge and more willing to help their homeless neighbors.

Profile of the Homeless Population

Each year, communities across the U.S. participate in the “Point-In-Time” count, a count of homeless individuals found in shelters, transitional housing, and public spaces. The most recent,

22 The United States Conference of Mayors, *Hunger and Homelessness Survey*, 5 (Dec. 2010), at http://www.usmayors.org/pressreleases/uploads/2010_Hunger-Homelessness_Report-final%20Dec%2021%202010.pdf.

23 National Low Income Housing Coalition, *Out of Reach 2011*, 5 (May 2011), at <http://www.nlihc.org/oor/oor2011/introduction.pdf>.

24 *Id.* at 3.

comprehensive Point-In-Time data comes from 2009,²⁵ which found that over 656,000 individuals experience homelessness on a given night in the U.S.²⁶ This number does not include homeless people who are living doubled up with friends or family or who may be otherwise missed by the Point-In-Time method of counting. Overall, in 2009 an estimated 1.56 million people spent one or more nights in an emergency shelter or transitional housing program.²⁷

Chronic vs. Temporary Homelessness: According to the Department of Housing and Urban Development, a chronically homeless person is “an unaccompanied disabled individual who has been continuously homeless for over one year.”²⁸ Only 17 percent of the overall homeless population consists of chronically homeless people.²⁹ For others, homelessness is a more transitional experience. While not representative of the full homeless population, chronically homeless individuals and people living on the streets are often the most visible of all homeless people and therefore may be the basis of the average person’s perceptions of overall homelessness.

Sheltered vs. Unsheltered: Approximately 40 percent of homeless individuals counted in 2009 were living on the streets or in another unsheltered situation. The rest of the homeless population was sheltered in some way.³⁰ A majority of the communities surveyed in 2009 found an increase in the proportion of homeless individuals who are sheltered versus homeless individuals who are unsheltered, making homelessness an even less visible experience for many people.³¹

Individuals vs. Families: The majority of the homeless population consists of individuals. In 2009, only 34.1 percent of homeless individuals were members of a family experiencing homelessness. However, the percentage of family homelessness has been on the rise; family homelessness increased from 131,000 families in 2007 to 170,000 families in 2009, a 20 percent increase.³²

Employment: A 1999 study found that 44 percent of homeless individuals surveyed had performed paid work within the past month. Of those, 20 percent were working in jobs that were expected to last for at least three months, and 25 percent were employed through a temporary position or day labor job.³³

25 While point-in-time counts are required every other year, many municipalities conduct such counts each year. Estimates for 2010, which rely on the 2009 point-in-time counts in some instances, are available at: U.S. Department of Housing and Urban Development, The 2010 Homeless Assessment Report to Congress, available at <http://www.hudhre.info/documents/2010HomelessAssessmentReport.pdf> (last visited Jul. 24, 2011).

26 National Alliance to End Homelessness, State of Homelessness in America 2011, 4 (Jan. 2011), available at <http://www.endhomelessness.org/content/article/detail/3668>.

27 U.S. Department of Housing and Urban Development, The 2009 Annual Homeless Assessment Report to Congress, 18 (Jun. 2010), available at http://www.huduser.org/Publications/pdf/2009_homeless_508.pdf.

28 U.S. Department of Housing and Urban Development, Chronic Homelessness, available at <http://www.hud.gov/offices/cpd/homeless/chronic.cfm> (last visited May 4, 2011).

29 National Alliance to End Homelessness, State of Homelessness in America 2011, at 4, 4 (Jan. 2011), available at <http://www.endhomelessness.org/content/article/detail/3668>.

30 Id.

31 Id. at 1.

32 U.S. Department of Housing and Urban Development, The 2009 Annual Homeless Assessment Report to Congress, 18 (Jun. 2010), available at http://www.huduser.org/Publications/pdf/2009_homeless_508.pdf.

33 Martha R. Burt et al., Homelessness: Programs and the People They Serve—Findings of the National Survey of Homeless Assistance Providers and Clients, xix (Dec. 1999), at <http://www.urban.org/UploadedPDF/homelessness.pdf>.

Age: Homeless people are very rarely elderly individuals. Only 2.8 percent of the sheltered homeless population is 62 years or more in age.³⁴ This statistic is unsurprising since homelessness has been associated with higher death rates and shorter life expectancy than average. Some estimates indicate that homeless individuals are 3-4 times more likely to die than people in the general population.³⁵ Additionally, each year, an estimated 1.5 to 2 million youth are homeless.³⁶

Substance Abuse and Mental Illness: Based on estimates from the Point-In-Time count, approximately one-third of homeless individuals found in homeless shelters had a chronic substance abuse problem and one-quarter faced severe mental illness. These statistics show an overrepresentation of substance abuse and mental illness among the homeless population when compared to the general population, but also show that those who face these challenges only represent a minority of the homeless population overall.³⁷

Domestic Violence: In 2009, victims of domestic violence made up 12 percent of the sheltered homeless population.³⁸

HIV/AIDS: Four percent of the sheltered homeless population in 2009 had HIV/AIDS,³⁹ and some estimates put 50 percent of individuals with AIDS as homeless or at immediate risk of homelessness.⁴⁰

Gender: Approximately 64 percent of homeless individuals are male and 36 percent are female.⁴¹

Race: Minorities are overrepresented in the homeless population, making up 62 percent of sheltered homeless individuals, and African Americans in particular are highly overrepresented.⁴² In 2009 African Americans represented nearly 40 percent of the sheltered homeless population. In contrast, African Americans were only about 12.4 percent of the overall U.S. population.⁴³

Veterans: Homeless individuals are twice as likely to be veterans as individuals in the general population.⁴⁴

34 U.S. Department of Housing and Urban Development, The 2010 Annual Homeless Assessment Report to Congress, at 17, available at http://www.huduser.org/Publications/pdf/2009_homeless_508.pdf.

35 National Health Care for the Homeless Council, Premature Mortality in Homeless Populations: A Review of the Literature, available at <http://www.nhchc.org/PrematureMortalityFinal.pdf>.

36 National Law Center on Homelessness & Poverty, Key Data Concerning Homeless Persons in America, 2 (Jul. 2009), available at <http://www.nlchp.org/>.

37 U.S. Department of Housing and Urban Development, The 2009 Annual Homeless Assessment Report to Congress, at 16, 18 (Jun. 2010), available at http://www.huduser.org/Publications/pdf/2009_homeless_508.pdf.

38 Id.

39 Id.

40 National Law Center on Homelessness & Poverty, Key Data Concerning Homeless Persons in America, at 5, 2 (Jul. 2009), at <http://www.nlchp.org/>.

41 Id. at 1.

42 U.S. Department of Housing and Urban Development, The 2009 Annual Homeless Assessment Report to Congress, at 22, 18 (Jun. 2010), available at http://www.huduser.org/Publications/pdf/2009_homeless_508.pdf.

43 Id. at 23.

44 National Coalition for Homeless Veterans, FAQ About Homeless Veterans, (last visited May 4, 2011), at <http://www.nchv.org/background.cfm>.

Foster Care: Estimates show that 27 percent of the homeless population has been part of the foster care system at some point in time,⁴⁵ and 12-36 percent of youth in the foster care system become homeless once they have aged out.⁴⁶

The Uninsured: In 2008, the National Health Care for the Homeless Council estimated that 70 percent of the clients who participated in Health Care for the Homeless did not have health insurance. The same organization estimates that half of all bankruptcies in the U.S. are related to healthcare problems.⁴⁷ Health-related factors clearly affect homeless, nearly-homeless, and other low income people.

Regional Trends

The homeless population can vary dramatically by region and can rise or decrease according to local factors. One important example is homelessness on the Gulf Coast as a result of Hurricane Katrina. The storm ruined much of that area's housing stock, and as a result, homelessness tripled between 2005 and 2009.⁴⁸

Additionally, some states have higher populations of homeless individuals than others. In 2009, California had a homelessness count of 133,129 individuals, representing about 0.36 percent of the state population⁴⁹, while Texas reported only 36,761 homeless individuals, representing about 0.15 percent of the state population⁵⁰. Other states with a high population of homeless individuals include Florida and New York, while states such as South Dakota and Wyoming have a very low number of homeless individuals. Florida, Nevada, and California have particularly high housing cost burdens. In these three states, over 80 percent of those at the Federal Poverty Level (FPL) pay 50 percent or more of monthly income in rent.⁵¹

45 On the Move, National Foster Care Youth Statistics, (last visited May 4, 2011), at <http://www.onthemovebayarea.org/node/561>.

46 Child Welfare League of America, Programs and Resources for Youth Aging Out of Foster Care, (last visited May 4, 2011), at <http://www.cwla.org/programs/fostercare/agingoutresources.htm>.

47 National Coalition for the Homeless, Health Care and Homelessness, (last visited May 4, 2011), at <http://www.nationalhomeless.org/factsheets/health.html>.

48 National Alliance to End Homelessness, State of Homelessness in America 2011, at 10, 4 (Jan. 2011), available at <http://www.endhomelessness.org/content/article/detail/3668>.

49 The Henry J. Kaiser Family Foundation, California: Demographics and the Economy, available at <http://www.statehealthfacts.org/profileind.jsp?cmpgrn=45&cat=1&rgn=6>

50 Id.

51 Id. at 15.

Criminalization Negatively Impacts the Whole Community

When a city uses laws or policies to target unsheltered homeless people for doing things they must do to survive, the impact is felt far and wide. While people experiencing homelessness feel the most profound impact of these measures, these also hinder service providers' work and tax the already overburdened criminal justice system. Ultimately, punishing homeless people for conducting life-sustaining activities takes a toll on our entire community in both tangible and intangible ways.

Criminalization Dehumanizes People and Perpetuates Homelessness

The impact of criminalization measures on people experiencing homelessness is profound. These laws and policies affect them in many ways, from violating their basic human dignity, to impairing their health, to thwarting their very ability to move out of homelessness. Examining the consequences of criminalizing homelessness demonstrates that this approach is not only truly counterproductive, but also a terrible injustice our communities impose upon some of our most vulnerable neighbors.

“I Remember the Day I Went to Jail”

by G.W. Rolle, St. Petersburg, Florida

I was in a park about five minutes before closing time, and the cops told me to leave. I had a lot of stuff with me – my bedding and two suitcases. One of the suitcases was really a trunk. That one had the majority of my clothes in it. The other one had my papers like my birth certificate, a novel I had been working on for three years, my pictures and letters I thought were important, and my electronic stuff, such as my radio and a phone out of minutes for the moment.

Four cops told me to leave the park, so I dragged one suitcase to the edge of the park and I was walking back to get the other one when three cars surrounded me. The police jumped out and arrested me. “Trespassing,” they said and “failure to obey a verbal command.” “We told you to leave,” one of them said. “You know the park closes at eleven.”

I must confess I didn't think much of the cops in those days. Homelessness and the police didn't mix then, and still don't. I tried to explain that I was going back to get the rest of my property and they just shrugged. “You got too much stuff anyways,” one of them said. “And we're not about to tear the paperwork up.”

“Let's go to jail then,” I said. “Think I'm not going to be out tomorrow? Think the judge is going to sentence me to a job and a house? I'm going to report you guys for wasting gas!”

That took a bit of the sting out of them and I smiled inwardly. They cuffed me so tightly that my hands were asleep by the time we got to the jail.

The next morning we lined up and marched to court. The guy in front of me had thrown fuel on his girlfriend and tried to light it. The guy behind me had shot up some guy's mother's house because she said he wasn't there and he called her a liar. When she slammed the door in his face, he sprayed the house with bullets.

Everybody laughed when I told my story, even the judge. "Next case!" he said.

It's a video court here in Pinellas County. I heard someone off the screen ask the judge what he was going to do with me. The judge had to restrain himself from yelling, "You people don't know what to do with him! Yet you bring him to me." I had sat down at that time. "Mr. Rolle," said the judge. I scurried back to the podium. "Mr. Rolle," the judge said, "Please go away. Case dismissed."

The police claimed that they didn't have bus passes and I didn't have any money, so I had to walk the four or five miles back downtown. One of my buds shared the walk with me. We busied ourselves on our walk by trying to match the people who disappeared to the ones we had seen in jail. We got them all but one. We talked about how hard it was to be homeless in a town where you were not welcomed. We talked about a certain service provider that invited the police in when they served lunch and how the cops would do warrant checks on the names as they were signed in, a requirement for eating.

For the first time since my arrest, I allowed myself to think about my stuff. We were walking silent for a bit, and I thought back to who had seen me cuffed. I recalled three people standing watching from the edge of the park. Two, a couple, I had seen around but didn't know. I knew the third guy but didn't trust him. I hoped that somebody was decent enough to take my bags over to my friends across the street where I slept. I figured that was stretching it though. For the last couple of miles, my steps were filled with dread.

As we approached the park, the first thing I saw was my trunk. It was opened and leaned against a garbage can. Most of my clothes were gone, though three of my t-shirts had been left in the trash. My bedding was long gone. I'd find my personal suitcase three days later, void of all memories, creative pursuits and electronic equipment.

The cops wanted to be feared by the homeless. They were hated instead. There were so many things you could go to jail for being homeless. Your every action was illegal in some form. You couldn't pee, you couldn't sit under a tree and read a book, you couldn't sleep anywhere outside. You couldn't be anywhere outside. The homeless were constantly being given marching orders by the police. Persecution transforms fear to hatred.

It was almost winter then and pretty chilly. I knew that I couldn't sleep without bedding. I crossed the park diagonally, like one slices a sandwich. I really didn't care about getting caught.

When everything that you do is pretty much illegal, even down to eating, jail loses its sting. It comes to represent a firm food schedule and a long walk home. I wasn't afraid of jail. I just wanted to perform a small act of defiance, without getting caught.

After making it through the park unscathed, I walked a block and a half down the street to what we called “The Gated Community”. The community was a row of abandoned townhouses. Some of the apartments even had the furniture still in them. The homeless moved in, but everyone wasn’t allowed to stay there. I was.

I started to walk towards the hole in the fence when I heard myself being hailed by a harsh whispered hiss. I looked towards the direction of the sound and saw someone frantically waving from the bushes. I recognized him, and crouch walked over to the bush. It was Kentucky Bob. He was the leader of the squat house. I joined him crouching in the bush.

“What’s up?” I asked. “There are about six cop cars on the front lawn. Everybody’s getting busted for trespassing. I was lucky,” he said. “What to do?” I asked. He shrugged. “Find a piece of cardboard and come back tomorrow. There are a couple of blankets in that dumpster.”

We got the blankets and left the area. Every cop car that passed us had to people cuffed in the backseat.

“KBob,” as we called him, informed me that I had lost my steady ticket at the labor pool by not showing up. “This is a loser’s game,” I said “We don’t win much out here.” I was trying to show that I didn’t care. I don’t know if I fooled anyone. I know I didn’t buy it.

I offered K Bob an envious glance as he drifted off to sleep. I folded one of the blankets for a pillow and covered myself with the other one. The faint smell of urine arrested my nostrils. I shook it off and tried to drift away.

My last thoughts were of the homeless dragged away from the abandoned gated community. I wished them well. I hoped they got the same judge as me...

Criminalization Dehumanizes Homeless People

Sleeping, sitting, eating, and using the bathroom are things all humans must do to survive. Many people who have never experienced homelessness take for granted the performance of these actions, as they are basic life functions and not criminal activity by their

nature. In fact, when performed inside they are unquestionably legal. However, for a homeless person who lives out in the public spaces of our cities, performing these very actions can land them in jail. When cities penalize people for the public performance of these activities even though they have no alternative private or public indoor space to do so, they are violating those homeless persons’ basic human dignity.

Many examples of this punitive approach toward homeless persons in public spaces can be found around the country.

We have a client who gets cited routinely for having a lot of his stuff with him. He's a hoarder and happens to be homeless. He gets maybe 6 to 10 citations for "objects on sidewalk", then gets arrested and loses all his stuff. It's madness to keep doing the same thing over and over again and expecting a different result. There are more enlightened interventions.

Patricia Wall, Homeless Action Center (Berkeley, CA)

- In St. Petersburg, Florida, a 60-year-old homeless man who is a diabetic was arrested for urinating in public at 1:00 a.m. when no restrooms were available. He spent a day in jail as a result and incurred a \$300 fine.⁵²
- In Boise, Idaho, a homeless man was arrested for sleeping outside under the city's anti-camping ordinance and served 90 days in jail for the "offense," even though the city had inadequate shelter space at the time.⁵³

During her visit to the United States in early 2011, UN Independent Expert on the Right to Water and Sanitation, Catarina de Albuquerque, was surprised to find people in communities around the country facing the same problems accessing water and sanitation facilities as are common in developing countries. In a subsequent press release, she recounted her visit with a community of homeless people in Sacramento who do not have access to bathrooms.⁵⁴ As several local service providers and advocacy groups in Sacramento noted in their testimony to Ms. Albuquerque, lack of shelter beds, transitional and affordable housing leave approximately 1,200 people to live on the streets in Sacramento on any given night.⁵⁵ Due to a lack of available public toilets, the community of homeless people devised a "toilet" from which one individual carried bags of waste to dispose of in public restrooms. Ms. Albuquerque recognized in her press statement that this situation was "unacceptable, an affront to human dignity and a violation of human rights that may amount to cruel, inhuman or degrading treatment."⁵⁶

The above examples are just a few of thousands that occur across the country on a daily basis. Lacking adequate space in which to carry out activities necessary for daily life is a sufficient violation of human dignity; being penalized for doing them is deeply dehumanizing.

Criminal Records Create Barriers to Employment, Housing and Services

When homeless persons are incarcerated for violating the range of laws that target them for conducting life-sustaining activities in public, their ability to access services and housing or maintain employment is hampered. Being able to access services and housing and maintain employment is crucial to helping homeless people move out of homelessness. Incarcerating homeless people for doing things they must do to survive only prolongs their homelessness and benefits no one.

The collateral consequences of having even an arrest or minor offense on one's record can result in ineligibility for public housing and difficulty in finding employment. Even citations given for

⁵² Amended Complaint, *Catron v. City of St. Petersburg*, Case No. 8:09-cv-923-SDM-EAJ, at 59 (December 15, 2009).

⁵³ Amended Complaint, *Bell v. City of Boise*, Case No. 1:09-CV-540-REB, at 8 (June 28, 2010).

⁵⁴ Catarina de Albuquerque, Press Statement on Mission to the United States of America from 22 February to 4 March 2011, 4 (March 4, 2011) [hereinafter "UN Independent Expert on right to water and sanitation press statement"].

⁵⁵ Legal Services of Northern California, Safe Ground Sacramento, and Loaves and Fishes, Testimony of Safe Ground Sacramento on the Status of Homeless Persons' Access to Water and Sanitation in Sacramento, California, 2 (Feb. 28, 2011); See also, Sacramento County Department of Human Assistance Homeless Programs 2009 Point-in-Time Homeless Count, Summary Report, at p. 1, available at http://www.saccounty.net/coswcm/groups/public/@wcm/@pub/@cos/documents/webcontent/sac_018568.pdf.

⁵⁶ UN Independent Expert on right to water and sanitation press statement, at 4.

minor offenses often have a fine attached. When these fines go unpaid, they can result in jail time or suspension of one's license and public benefits.

- For example, out of 200 homeless and low-income Los Angeles Skid Row residents surveyed in 2010, 31 percent lost social services, 26.8 percent lost housing, and 6.9 percent lost employment as a result of a citation.⁵⁷

Criminalization Creates Barriers to Employment

In 2006, in front of Fred Jordan [Mission], I was arrested for an outstanding warrant for a failure to appear in court. I was taken to jail for 90 days and during that time I lost my Section 8 and GR (general relief). Because I was gone from my apartment for 30 days, the manager labeled it abandonment, which stayed on my record. It took 4 years to get my housing back – I was homeless for 4 years.

Roger Albert Romero (Los Angeles, CA)

Despite popular notions, many homeless people do work. One study found that 44 percent of homeless people have some type of paid employment.⁵⁸ Another study by the Center for Urban Economic Development at the University of Illinois at Chicago found that the majority of adults living in the shelters they surveyed held day labor jobs through staffing agencies.⁵⁹ When someone is incarcerated under a “quality of life” ordinance, that person will miss work,

leaving him or her at greater risk for losing his or her job. Without a steady source of income, moving out of homelessness becomes that much harder.

In addition to barriers created by arrests, criminal records can create even more problems for people trying to obtain work.

- In a recent survey of mostly larger employers, over 90 percent performed a criminal background check on some or all job applicants.⁶⁰
- Thirty-eight out of 50 states permit employers to ask about or rely on arrests that never resulted in convictions when making employment decisions. Five states (CT, DE, FL, MA, and NY) have recently implemented laws prohibiting employers from refusing to hire anyone with arrests or convictions for minor offenses. However, most states still allow employers to maintain this practice.⁶¹
- Many states still do not require employers to establish a set of standards in determining an applicant's eligibility for employment: 34 states have no standard requirements for public employers, while 43 states have no standards for private employers.⁶²

⁵⁷ Los Angeles Community Action Network (LA CAN), Community-Based Human Rights Assessment, 1 (2010), available at <http://cangress.files.wordpress.com/2010/12/sci-2010-report-final1.pdf>. [hereinafter Community-Based Human Rights Assessment]

⁵⁸ Martha R. Burt et al., The Urban Institute, Homelessness: Programs and the People they Serve: Technical Report 5-9 (Interagency Council on the Homeless, December 1999).

⁵⁹ Nikolas Theodore, A Fair Day's Pay? Homeless Day Laborers in Chicago, i (2000).

⁶⁰ Society of Human Resources Management, Background Checking: Conducting Criminal Background Checks, 3 (2010), available at <http://www.shrm.org/Research/SurveyFindings/Articles/Pages/BackgroundCheckCriminalChecks.aspx>.

⁶¹ Legal Action Center, After Prison: Roadblocks to Reentry 2009 Update, 1 (2009), available at <http://www.lac.org/roadblocks-to-reentry/upload/lacreport/Roadblocks-to-Reentry--2009.pdf>. [hereinafter After Prison: Roadblocks to Reentry]

⁶² After Prison: Roadblocks to Reentry at 10.

As a result of the lack of protections in place for people with arrest or criminal records, employment is increasingly difficult to obtain for those individuals.

Under Title VII of the Civil Rights Act of 1964, in order for employers to consider an applicant's criminal record as a factor, they must do an individualized assessment of each applicant which considers the nature and gravity of the offense(s), the time that has passed since the conviction and/or completion of the sentence, and the nature of the job held or sought.⁶³ If employees take these three factors into account, minor run-ins with the law or offenses from the distant past should not bar applicants from being considered.⁶⁴ Yet, there are several examples of employers issuing blanket policies that include not only "no felony" conviction policies, but also no arrests whatsoever or misdemeanor convictions. Some require a spotless criminal history.

Criminalization Creates Barriers to Accessing Services

In other circumstances, individuals may be engaged in a program, receiving or eligible for public benefits, or receiving services from a local services provider. When a homeless person is incarcerated, he or she will be unable to access services, public benefits, or maintain contact with the service provider, creating another barrier in moving out of homelessness.

For example, Supplemental Security Income (SSI) and other benefits are suspended while a person is incarcerated. While SSI benefits, suspended due to incarceration of less than one year, may be reinstated if the homeless recipient makes an in-person request at a Social Security Administration office immediately following release, SSI benefits suspended due to longer periods of incarceration require a new application and the homeless individual will be forced to wait for several months before their benefits are reinstated.⁶⁵

Some states even prohibit defendants with outstanding misdemeanor warrants from getting certain benefits. For example, Pennsylvania prohibits defendants from collecting cash assistance or medical assistance if the person owes fines, court costs, or restitution, regardless of whether payments are a condition of probation.⁶⁶

Criminalization Creates Barriers to Accessing Housing

Other times, people experiencing homelessness may be attempting to obtain housing and have those efforts thwarted when arrested under measures that criminalize homelessness. One of our survey respondents who is a service provider in Wenatchee, Washington, shared such a story from one of the families she has served.

63 U.S. Equal Employment Opportunity Commission, Policy Statement on the Issue of Conviction Records under Title VII of the Civil Rights Act of 1964 (1982), February 4, 1987.[hereinafter EEOC Arrest Record Guidance].

64 National Law Employment Project, 65 Million "Need Not Apply: The Case for Reforming Criminal Background Checks for Employment, 6 (2011), available at: http://www.nelp.org/page/-/65_Million_Need_Not_Apply.pdf?nocdn=1 [hereinafter 65 Million Need Not Apply].

65 Blank, A., Access for Some, Justice for Any? The Allocation of Mental Health Services to People with Mental Illness Leaving Jail, Unpublished dissertation, University of Pennsylvania School of Social Policy and Practice (2006).

66 Id.

Toward the end of 2010, a family of two parents and three children that had been experiencing homelessness for a year and a half applied for a 2-bedroom apartment. The day before a scheduled meeting with the apartment manager during the final stages of acquiring the lease, the father of the family was arrested for public urination. The arrest occurred at an hour when no public restrooms were available for use. Due to the arrest, the father was unable to make the appointment with the apartment manager and the property was rented out to another person. As of March 2011, the family was still homeless and searching for housing. Instead of taking a step forward and finally establishing a stable housing situation, the family's homelessness continued due to this public urination arrest.

In addition, exclusionary housing policies are a significant barrier to obtaining housing for homeless individuals with criminal records. Despite the need of many homeless individuals for permanent housing, many Public Housing Authorities (PHAs) use overly exclusive policies when determining whether an applicant with a criminal record is eligible for public housing. In 1996, HUD developed guidelines to press PHAs to screen tenants for criminal records and its "One Strike Guide" calls on PHAs to "take full advantage of their authority to use stringent screening and eviction procedures."⁶⁷

Yet HUD regulations also provide PHAs with discretion and advise PHAs to take into consideration the time, nature, and extent of an applicant's conduct, and the seriousness of the offense.⁶⁸ However, they do not require PHAs to do any individualized evaluations of whether a specific applicant is likely to pose a risk to the safety of existing public housing residents; few of them provide a meaningful evaluation before issuing a rejection.

Guidelines allow PHAs to reject applicants based solely on arrest records even if the charges were dropped afterwards.

- In a 2003 survey of PHAs around the country, many had policies allowing ineligibility based on arrest records.⁶⁹
- Exclusionary periods are also unnecessarily long. As of 2004, housing authorities in Pittsburgh, Austin, and Sarasota all have indefinite exclusionary periods for people just arrested for misdemeanors.⁷⁰
- The Seattle Housing Authority's website states that applicants are automatically denied if they were convicted of a misdemeanor or misdemeanor assault within the past two years.⁷¹

⁶⁷ HUD, One Strike and You're Out' Screening and Eviction Guidelines for Public Housing Authorities, Notice PIH 96-16 (HA) (1996), available at http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_10981.pdf.

⁶⁸ 24 CFR § 960.203(d) (2007); HUD, Public Housing Occupancy Guidebook, ¶¶ 4.6, 4.8 and 4.10 (2003), available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/rhiip/phguidebook.

⁶⁹ Id. at 26.

⁷⁰ Id. at 30.

⁷¹ The Seattle Housing Authority, "Eligibility," available at <http://seattlehousing.org/housing/public/eligibility>. (last visited April 27, 2011)

- HUD told Human Rights Watch (HRW) that 46,657 public housing applicants were deemed ineligible in 2002 due to “one-strike criteria.” However, there is no specific definition as to what constitutes “one-strike criteria,” and therefore HRW estimates this number is likely much higher.⁷²

In 2005, Columbia Law School, along with the Columbia Center for New Media Teaching and Learning, created a Collateral Consequences Calculator to illustrate New York City Housing Authority’s unnecessarily long exclusionary periods. It allows one to choose an offense in the New York Criminal Code and then calculates how long someone would be ineligible from New York City public housing as a result of being charged with this offense. Charges such as littering on railroad tracks and rights-of-way and loitering can exclude someone from public housing eligibility for 2-3 years.⁷³

Similarly, the Criminal Justice Section of the American Bar Association is in the process of conducting a three-year study to create an Adult Criminal Consequences database. When it is complete, users will be able to look up a criminal statute in any of the 50 states and see the consequences for housing and employment for a record with this offense.⁷⁴

Inability to Pay Fines Can Lead to Arrest or Other Penalties

In many cases, citations for minor offenses have major fines attached to them. Failure to pay them can have dire consequences.

People are often jailed even when the underlying offense for which they are cited does not carry a jail penalty, because failing to pay the fine associated with the ticket can result in jail time. Since the original offense was not punishable by jail, they are often not entitled to legal representation by the Public Defender’s office. Therefore, they would have to represent themselves in court against a police officer or local District Attorney who has court training.

In Los Angeles’ Skid Row, many residents have fixed monthly incomes between \$221 and \$850 a month, yet the typical fine for pedestrian signal violations is between \$159 and \$191. Out of almost 600 tickets documented by an LA legal clinic in 2009, 90 percent were for crosswalk violations/jaywalking. For those that reported their disability status, 60 percent of recipients of these tickets were disabled and could not cross an intersection in time due to their wheelchairs, walkers, or canes. If unpaid, fines can increase to \$600 over just a few months. Due to these individuals being unable to pay the fines, their driver’s licenses may be suspended and a warrant for their arrest may be issued.⁷⁵

⁷² Id. at 19.

⁷³ Id.

⁷⁴ ABA CJS Collateral Consequences Projects, <http://www2.americanbar.org/sections/criminaljustice/CR206500/Pages/collateral.aspx>.

⁷⁵ Community-Based Human Rights Assessment, at 1.

Criminalization Harms Homeless Persons' Health

Criminalization measures exacerbate the detrimental impact that homelessness has on a person's health. Studies of homeless persons in urban areas indicate that they have higher mortality risks than the general population.⁷⁶ According to a 2005 study of homeless adults in New York City, the death rate of homeless adults who used single adult shelters was twice the rate of the general New York City adult population.⁷⁷ In this context, laws or policies that result in the loss or destruction of important medication or keep homeless persons from accessing food or services can result in even greater harm to those individuals living out on the streets.

Many cities engage in “sweeps” of areas where homeless people are living. Such sweeps involve a city entity, either law enforcement officials or public works officials, going through an area where homeless people are living and clearing out that area. While some cities give homeless people notice of any sweeps and provide an opportunity for people to retrieve their belongings after the sweep, a number of cities have not and do not.⁷⁸ Homeless persons may lose very valuable personal belongings, including essential medication, as a result of sweeps.

The city of Columbia in South Carolina has few social services for homeless individuals. Shelter space is limited and seasonal, and individuals who use shelters have to be out by early morning and can return only at the end of the day. There are very few resources for case management or transportation to services. In 2010, a homeless woman in Columbia was pregnant and facing a domestic violence situation with her partner. During daytime hours, when she could not be inside of a shelter, she attempted to spend time in a museum and was told to leave. She then attempted to sit on a bench outside the museum and was again told to relocate. In several other instances, still during her pregnancy, the woman was told that she could not sit in a local park during the day because she would be “squatting.” In early 2011, about six months into her pregnancy, the homeless woman began to feel unwell, went to a hospital, and delivered a stillborn child. Though the loss of the baby may not have been a direct consequence of the criminalization of this woman's homelessness, an alternatively constructive approach in addressing her situation could have led to a more positive outcome.

Charmaine Primus, Restoration (Columbia, SC)

Striking examples of such destruction come from the circumstances of a lawsuit filed against the City of Fresno in 2006. Prior to the lawsuit, the city had engaged in a practice of sweeping areas where homeless individuals were living and destroying their property.

- One homeless plaintiff had her shelter and backpack with identification documents destroyed during a sweep. As a result, she was forced to sleep unsheltered, which contributed to her catching pneumonia in both lungs.⁷⁹

76 O'Connell, Jim, et al., A Public Health Approach to Reducing Morbidity and Mortality Among Homeless People in Boston, 11(4) Journal of Public Health Management and Practice 311-316 (2005).

77 New York City Departments of Health and Mental Hygiene and Homeless Services, The Health of Homeless Adults in New York City 1 (2005), available at <http://www.nyc.gov/html/doh/downloads/pdf/epi/epi-homeless-200512.pdf>.

78 For more information about lawsuits challenging such sweeps, see the Case Summaries in the Advocacy Manual Appendix.

79 Order Granting Preliminary Injunction, Kincaid v. City of Fresno, 2006 WL 3542732, 8 (Dec. 8, 2006).

- Another plaintiff had her asthma medication and the nebulizer machine she used to breathe destroyed in one of the sweeps. She subsequently spent much time in the emergency room because of her untreated asthma, until she was able to obtain her medication (two months later) and a new nebulizer (five months later).⁸⁰
- Another disabled homeless individual had her wheelchair and medication, among other belongings, destroyed during a sweep. As a result, she and her husband subsequently slept unsheltered, and she ended up in a coma for two weeks.⁸¹

These are only some of the disastrous consequences of sweeps; there are countless other people experiencing homelessness who suffer similar injuries.

In addition, in recent years, cities have been passing ordinances that restrict groups that share food with homeless people.⁸² When cities impose such restrictions, they limit homeless persons' ability to access safe, healthy food, increasing the likelihood that those persons will seek food from unsanitary sources, such as garbage cans, which can lead to acute illness, or be generally undernourished and more susceptible to a host of other health problems.

While the health consequences of criminalization measures may not always be readily apparent, the impact of such measures can be quite grave. Cities should take these potential health consequences into account when considering sweeps, food sharing restrictions, or enforcement of other "quality of life" laws.

Criminalization Burdens Service Providers, Jails, and other Institutions

Criminalization Hampers Providers' Ability to Serve

Because we are an employment program, when someone is arrested they often lose their identification and we have to start over at square one with obtaining new ID, which is often the only barrier to obtaining employment and becoming self-sufficient.

Vicki Salsbury, Columbia River Mental Health Services (Vancouver, Washington)

Criminalization measures can have a significant negative impact on service providers' abilities to do their work, thereby wasting precious resources and making it that much more difficult for homeless people to move out of homelessness.

Long at the forefront of efforts to end homelessness, outreach programs can be a critical link to connect homeless individuals living on the streets to services. Successful outreach requires building trust with individuals who are not reached by other service providers,⁸³ and

⁸⁰ Id. at 11.

⁸¹ Id. at 12.

⁸² For more information on these types of restrictions see, National Coalition for the Homeless and National Law Center on Homelessness & Poverty, A Place at the Table: Prohibitions on Sharing Food with People Experiencing Homelessness (2010).

⁸³ Anthony C. Tommasello, Effectiveness of Outreach to Homeless Substance Abusers, 22 Office of Substance Abuse Studies: Evaluation and Program Planning 285, 296 (1999).

effective outreach takes time.⁸⁴ Outreach workers must meet homeless individuals where they are,⁸⁵ and must accept their timetable for opening up to allow a relationship to develop gradually.⁸⁶ In addition, providing a desired resource,⁸⁷ such as a nutritious meal, can facilitate the development of a trusting relationship. When that outreach network is disrupted, homeless individuals may miss out on opportunities that could help them move out of homelessness.

When cities target homeless people through criminalization measures or sweeps, they frequently move them from locations where service providers regularly reach them, making it more difficult for service providers to do their jobs. For example, Lin Romano from Govans Ecumenical Development Corporation in Baltimore, Maryland reported on the difficulties faced when people they serve are moved from their regular home bases outdoors:

We offer permanent, supported housing for people experiencing homelessness. Unfortunately, we have a waiting list, and thus try to stay in contact with people when they are near the top of the list. But when they are forced out of their (outdoor) home bases and seek refuge in other parts of town, people often lose touch with the points of contact we have for them. Thus, they lose their long-term housing opportunity.

In addition, the growing trend of cities restricting groups from sharing food with homeless persons in public spaces places another barrier in developing relationships with people who are living on the streets. Providing such food not only nourishes people in need, but also may help connect them to services that could help them move off of the street.

As highlighted previously in the report, another consequence of sweeps can be the destruction of people's property, including essential items like identification documents.⁸⁸ Several service provider respondents to our survey indicated how harmful loss of identification can be for people they serve and how it burdens providers with additional costs. One of our survey respondents, Jessie McGraw of the YWCA Salem in Salem, Oregon, explained the impact of the loss of identification documents upon her clients and her work.

One of my clients lost his identification in a homeless sweep (was confiscated, misplaced, and never recovered/more than likely it was thrown away by the police conducting the raid). This made it harder for us to assist him in accessing employment opportunities (despite the fact he had several job interviews coming up) because we had to come up with money to get him a birth certificate AND new identification prior to the interviews. Accessing financial resources and ordering the birth certificate required more time than we had, so he missed out on some of the opportunities we had set up for him.

⁸⁴ S. Segal & J. Baumhol, News and Views: The Community Living Room, 66 Social Casework 111, 116 (1985).

⁸⁵ Michael Rowe et. al, Services for Mentally Ill Homeless Persons: Street-Level Integration, 68 Am. J. Orthopsychiatry 490, 491 (July 1998); Anthony C. Tommasello, Effectiveness of Outreach to Homeless Substance Abusers, 22 Office of Substance Abuse Studies: Evaluation and Program Planning 285, 296 (1999); Axleroad & Toff, at 3–4.

⁸⁶ Gary A. Morse et al., Outreach to Homeless Mentally Ill People: Conceptual and Clinical Considerations, 32 Community Mental Health Journal 261, 265 (June 1996); see also Paula Goering et al., Process and Outcome in a Hostel Outreach Program for Homeless Clients with Severe Mental Illness, in 67 Am. J. Orthopsychiatry 607, 609 (Oct. 1997).

⁸⁷ Morse, at 265.

⁸⁸ For more information about identification issues for homeless individuals, see National Law Center on Homelessness & Poverty, Photo Identification Barriers Faced by Homeless Persons: The Impact of September 11 (2004).

Though cities may think that arresting homeless people in public spaces or moving them from sight may solve the problem of homelessness, they are actually prolonging it and wasting existing resources aimed at solving the problem. The resources that providers have to expend compensating for the negative impact of criminalization measures would be put to better use to actually end homelessness.

Criminalization Burdens the Criminal Justice System

The criminalization of homelessness has imposed needless burdens on the criminal justice system. For many reasons, addressing homelessness through the criminal justice system is an inappropriate and inefficient response to this pressing social issue.

Police Are Ill-Equipped to Tackle a Social Problem

Law enforcement officers are not sufficiently trained to deal with the issues of homelessness, mental illness, and substance abuse. While around 6 percent of the general population suffers from a serious mental illness,⁸⁹ the Substance Abuse and Mental Health Services Administration has reported that approximately 39 percent of people who are homeless have a mental disorder.⁹⁰ In addition, an estimated 50 percent of adults with serious mental disorders who are homeless experience a substance abuse disorder as well.⁹¹ Police officers are often called in to intervene with homeless people who are undergoing a severe mental health crisis, even though they may not have adequate training.⁹² Instead of turning to law enforcement to address street homelessness, communities should set up collaborations between services providers and police departments to ensure that people in need receive appropriate services.

Incarcerating Homeless Individuals Costs More than Providing Housing

Using the criminal justice system to address homelessness can be a very costly approach. The costs associated with criminalizing homelessness include law enforcement costs, court costs, and jail costs. These costs vary from county to county throughout the nation, and are generally higher than the cost of providing shelter or permanent housing.

For example, in Alachua County, Florida, if an officer is issuing a citation for a minor offense, he or she may opt to use the Notice to Appear option, whereby the individual agrees to appear in court on a particular date and time for a hearing on the underlying offense. However, when an individual lacks a permanent address, state ID, or confirmed ties to the community, officers are unable to utilize the Notice to Appear option. They must then arrest the individual to ensure his

89 RC Kessler, WT Chiu, O. Demler & EE Walters, Prevalence, severity, and comorbidity of twelve-month DSM-IV disorders in the National Comorbidity Survey Replication (NCS-R), Jun 62.6, Archives of Gen. Psychiatry 617 (2005).

90 T. Lehman & D.S. Cordray, Prevalence of alcohol, drug, and mental health disorders among the homeless: A quantitative synthesis, Fall Contemporary Drug Problems 355 (1993).

91 Substance Abuse and Mental Health Services Administration. Report to Congress on the Prevention and Treatment of Co-Occurring Substance Abuse Disorders and Mental Disorders, Ch. 4 - Evidence-Based practices for Co-Occurring Disorders - High-Risk Populations, Nov. 2002. See also P. Fisher & W. Breakey, The epidemiology of alcohol, drug, and mental disorders among homeless persons, 46 American Psychologist 1115 (1991).

92 Martha Williams Deane, Henry J. Steadman, Randy Borum, et al, Emerging Partnerships Between Mental Health and Law Enforcement, 50 Psychiatry Services 99 (1999), available at <http://psychservices.psychiatryonline.org/cgi/content/full/50/1/99>; See also, H. Richard Lamb, Linda Weinberger & Walter DeCuir, Jr., The Police and Mental Health, 53 Psychiatry Services 1266 (2002).

or her appearance in court. Alachua County estimated the cost to arrest, transport, book, house and process a person through First Appearance to be over \$600 per incident.⁹³

In Eugene, Oregon, the daily cost of incarcerating someone in the Lane County Jail totaled \$379. The cost could be broken down to include \$134 for providing shelter, food, transportation, and processing an individual and \$245 for the cost of arrest, jail book-in and holding costs until their appearance before a judge.⁹⁴ According to city data, the median gross rent in Eugene is \$774 per month.⁹⁵

The Charlotte-Mecklenburg 10-year plan to end homelessness cited a 2006 study conducted by the Sheriff's Department, which provided data on the cost of chronic offenders in the county jail. The study sample included 81 chronic offenders (arrested at least five times in the prior year), of which 33 were homeless individuals. The average number of arrests for the 33 homeless chronic offenders was 11.1 per year, and the average length of stay in jail over the course of a year was 86.6 days. Housing a person in the county jail costs approximately \$107 per night. In contrast, the cost of housing a person in a shelter for an entire year in Charlotte ranged from \$16.50 to \$38 per night, which is 15-35 percent the cost of housing an individual in jail.⁹⁶

In its 10-year plan, Buncombe County in North Carolina followed 37 chronically homeless individuals over a three-year period and discovered that these individuals were arrested 1,271 times over three years, resulting in a total jail cost of \$278,000. When police costs, prosecution costs, and court costs are added in, the total cost, according to the Asheville Police Department, climbs to about \$10,000 per person per year. The same 37 individuals used the EMS service 280 times over the same three-year period, costing \$120,000. Their hospitalization costs at Mission Hospitals for the same time period was \$425,000. The total documented medical costs amounted to approximately \$5,500 per person per year.⁹⁷

Utah's statewide 10-year plan featured a study by The Road Home, the state's largest homeless shelter (located in Salt Lake City). The Road Home studied homelessness costs and found that the annual costs for a person in permanent supportive housing is about \$6,100. Then they studied the annual costs of shelter, jail, and hospital services and found them to be much higher: \$6,600 for shelter at the Road Home, \$25,500 in the Salt Lake County Jail, \$35,000 in the State prisons, and \$146,730 in the State Mental Hospital.⁹⁸

The American Civil Liberties Union published a report in 2010 related to indigent defendants who are imprisoned for failing to pay legal debts generated out of incarceration. The report

93 Project Grace: The Gainesville/Alachua County 10 Year Plan to End Homelessness, 16-17 (2005).

94 City of Eugene, Low Income Housing and Homelessness FAST FACTS, available at http://www.eugene-or.gov/portal/server.pt/gateway/PTARGS_0_2_240566_0_0_18/FAST%20FACTS-%20B-REVISED%20FORMAT.pdf.

95 City-data, Eugene, Oregon (OR) profile (2009), available at <http://www.city-data.com/city/Eugene-Oregon.html>.

96 Charlotte-Mecklenburg County, MORE THAN SHELTER! Charlotte-Mecklenburg's Ten-Year Implementation Plan to End and Prevent Homelessness---One Person /One Family at a Time (October 2006), available at <http://www.awayhome.org/MoreThanShelterFinal.pdf>.

97 Looking Homeward: The 10-Year Plan to End Homelessness Asheville and Buncombe, NC, (2005) 24, available at http://www.ashevillenc.gov/uploadedFiles/Residents/Housing_and_Neighborhood_Services/Homeless/10yearplan.pdf. For more information on efforts to end homelessness in North Carolina, contact the North Carolina Department of Health and Human Services available at <http://www.ncdhhs.gov/homeless/tenyearplan.htm>.

98 Utah Department of Community and Economic Development, Utah's Ten-Year Business Plan to End Homelessness, (2004) 6-7, available at <http://www.usich.gov/slocal/plans/utah.pdf>.

includes the story of Gregory White, a homeless man in New Orleans who was arrested for stealing \$39 worth of food from a local grocery store, resulting in \$339 in fines and fees imposed upon him. These fines and fees were later converted into a community service sentence after he was jailed because he could not pay the fines. Mr. White spent a total of 198 days in jail because he was unable to pay the fines and could not afford the bus fare to complete his community service. In all, his incarceration cost the City of New Orleans over \$3,500.⁹⁹

Criminalization Measures Contribute to Overcrowding in Jails

As many jails are already overcrowded, incarcerating homeless individuals for conducting life sustaining activities in public, such as sleeping, sitting, or asking for money only exacerbates the challenges facing our jails. Our jails could be better put to use to incarcerate individuals for more serious crimes.

In one example, the Greater Cincinnati Coalition for the Homeless analyzed the jail roster for Hamilton County Jails almost every day between August 28, 2006 and November 2, 2006. On average, 5.68 percent of the jail population was homeless and the jails were over capacity every day the data was collected. However, if those homeless individuals had not been arrested and jailed, the jail would not have been over capacity on any one of those days.¹⁰⁰

A study by the Sheriff's department in Charlotte-Mecklenburg County, North Carolina found that 41 percent of chronic offenders were homeless, yet the majority of their crimes were misdemeanors such as open containers or public urination. The researchers found that repeated involvement of the same individuals in the criminal justice system resulted in systemic congestion and jail crowding.¹⁰¹ On any given night, 20 percent of jail cells were occupied by homeless offenders, the majority of whom were nonviolent, in need of housing not incarceration.¹⁰²

As highlighted by the recent U.S. Supreme Court decision in *Brown v. Plata*,¹⁰³ overcrowding in our prisons and jails can lead to safety concerns, civil rights violations and lawsuits challenging those conditions. Communities should reconsider the wisdom of using the criminal justice system to address public homelessness.

Criminalization Imposes Costs to Wider Community by Prolonging Homelessness

When cities use resources to criminalize homelessness, they ultimately prolong periods of homelessness experienced by targeted individuals. In turn, those individuals who have difficulty moving out of homelessness as a result of criminalization measures incur further costs just by remaining homeless.

99 American Civil Liberties Union, *In For A Penny, The Rise of America's New Debtors' Prison*, 23 (October 2010).

100 Greater Cincinnati Coalition for the Homeless, *Criminalization of Homeless Individuals in Cincinnati* (2007), available at <http://www.cincihomeless.org/>.

101 Mecklenburg County Sheriff's Office, *Chronic Offender Study*, 6 (March 2007).

102 Urban Ministry Center, *Homeless to Homes: A Housing First Solution for Charlotte's Chronically Homeless* (2010), available at <http://www.urbanministrycenter.org/moore-place/homeless-to-homes-h2h>.

103 *Brown v. Plata*, 131 S. Ct. 1910 (2011).

Perpetuating Homelessness Costs More than Providing Supportive/Permanent Housing

People who are homeless are more likely to access costly health care services.¹⁰⁴ According to a study in the *New England Journal of Medicine*, homeless persons in New York City spent an average of four days longer per hospital visit than did comparable non-homeless people. The average cost of additional days per discharge, approximately \$2,414, is attributable to homelessness.¹⁰⁵

The cost effectiveness of supportive housing is easily seen with disabled individuals. The Denver Housing First Collaborative (DHFC) conducted a Cost-Benefit Analysis Report on 19 disabled homeless individuals' use of services for 24 months prior to enrollment and 24 months after enrollment. Cost data from the clinical records were analyzed to determine the emergency room, inpatient medical or psychiatric, outpatient medical, detox services, incarceration, and shelter costs and utilization. The total emergency related costs for the sample group declined by 72.95 percent, or nearly \$600,000 in the 24 months of participation in the DHFC program compared with the 24 months prior to entry in the program.¹⁰⁶

Rural homeless people with disabilities who retained permanent, supportive housing saw a reduction in spending by 32 percent. The study defined permanent supportive housing as affordable housing for those who are homeless, where support services for people with mental illness or co-occurring disorders of mental illness and substance abuse are available, either on-site or in other community locations. The study also reported a 57 percent reduction in the cost of mental health services over a six-month period. Part of that reduction was a dramatic 79 percent drop in the cost of psychiatric hospitalization, from \$452,800 to \$96,641.¹⁰⁷

A Housing First program in Seattle, Washington, known as 1811 Eastlake, serves homeless persons with alcohol addiction who use local crisis services at high levels. A study was conducted to evaluate the "Housing First" intervention's impact with chronically homeless individuals with alcohol addiction on health care use and costs.¹⁰⁸ Participants were chosen due to their extreme health care costs. Housed participants had \$3,569 less costs per month during the housed period than non-housed participants. As housing costs were \$1,120 per person, the average total savings for each individual was \$2,249 per month.

Even in instances where people do not have mental illnesses or disabilities, the cost of subsidized housing is still well below the cost of emergency shelter. In 2004, the Congressional Budget Office estimated the cost per housing voucher as \$7,028.¹⁰⁹ In contrast, the cost of an emergency shelter bed funded by HUD's Emergency Shelter Grants program is approximately \$15,095, or

104 National Alliance to End Homelessness, *A Plan, Not a Dream: How to End Homelessness in Ten Years* (2000).

105 S.A. Salit, E.M. Kuhn, A.J. Hartz, et al, Hospitalization costs associated with homelessness in New York City, 338 *New Eng. J. Med.* 1734 (1998).

106 Jennifer Perlman, John Parvensky, Denver Housing First Collaborative: Cost Benefit Analysis and Program Outcomes Report (2006), available at <http://www.shnny.org/documents/FinalDHFCostStudy.pdf>.

107 Melany Mondello, Jon Bradley, Tom Chalmers, et al, Shalom House Inc Rural Cost Study (2009), available at http://72.3.164.28/press_center/shalom_house_inc_rural.aspx.

108 ME Larimer, DK Malone, MD Garner, et al, Health care and public service use and costs before and after provision of housing for chronically homeless persons with severe alcohol problems, 301 *JAMA* 1349 (2009).

109 Center on Budget and Policy Priorities, *New CBO Estimates Confirms Shortfall in Housing Voucher Funding* (Aug. 29, 2003), available at <http://www.cbpp.org/cms/index.cfm?fa=view&id=2125>.

about \$8,067 more than the average annual cost of a Section 8 Housing Certificate.¹¹⁰ A Section 8 voucher is clearly a more cost-effective means to combat homelessness.

Criminalization Imposes Opportunity Costs

By focusing police efforts on deterring innocent activities homeless people need to do to survive, valuable resources are diverted away from fighting dangerous crime. In September 2006, the Safer Cities Initiative in Los Angeles added 50 police officers to target narcotics-related crime and misdemeanor offenses including illegal vending, littering, jaywalking, dumping and vandalism in the Skid Row area.¹¹¹ The addition of these police officers cost the city \$6 million annually – resources that could have been put to better use housing people.

Criminalization measures make it that much more difficult for people to move out of homelessness and reach their full potential as active members in our community. These lost opportunities have a dramatic impact not only in the individual human lives touched by homelessness, but also our society as a whole.

Allowing members of our society to remain homeless is a costly choice. Providing permanent and/or supportive housing is not only a more humane approach, but can also save our communities money.

Criminalization Violates Standards of Fairness

Criminalizing homelessness not only makes no sense from a policy perspective, but is also counter to American values related to fairness and justice. The moral imperative to care for the neediest among us and preserve and protect the human dignity of all people is a deeply entrenched American value. It is reflected in the religious beliefs and practices of Americans of diverse faiths and in our most sacred political writings and foundational documents. The trend toward criminalizing homelessness, rather than working to care for and empower people who are poor, threatens to undermine this deeply held cultural value that has bound Americans together throughout history.

Across the United States, faith-based organizations lead service efforts to address homelessness and poverty. It is no surprise then that 73 percent of all pantries, 65 percent of all food kitchens, and 43 percent of all shelters that provide emergency meals for people in need are faith-based.¹¹² Given the prominence of a faith-based approach to addressing homelessness, it is worthwhile to examine how criminalization measures, which harass and violate the basic rights and human dignity of homeless people, may be contrary to the fundamental religious principles from which the American people seek guidance.

When Gandhi proclaimed, "A nation's greatness is measured by how it treats its weakest members," he spoke not only of a deep morality felt by his fellow Hindus but also by Christians,

¹¹⁰ National Alliance to End Homelessness. *The Costs of Homelessness* (2010), available at http://www.endhomelessness.org/section/about_homelessness/cost_of_homelessness.

¹¹¹ Danny Jensen, *Is the Safer Cities Initiative Increasing Homelessness in Los Angeles?*, Change.org (Jan 27, 2011), available at <http://news.change.org/stories/is-the-safer-cities-initiative-increasing-homelessness-in-los-angeles>.

¹¹² Rhoda Cohen, Myoung Kim, Jim Ohls, *Hunger In America*, (2006), available at <http://feedingamerica.org/our-network/-/media/Files/A2HNationalReport.ashx?.pdf>.

Jews, and Muslims. Similar teachings can be found in the Bible, Koran, and the Torah, all of which present their followers with a duty to be charitable to those who are less fortunate.

Christianity is deeply rooted in the notions of charity and service to those who are in need. “We are called to feed the hungry, to give drink to the thirsty, to clothe the naked, to shelter the homeless.”¹¹³ Jewish doctrine emphasizes service to both kin and strangers alike by instructing its followers to “speak up, judge righteously, champion the poor and the needy.”¹¹⁴ God himself is believed to have commanded, “Share your food with the hungry, and give shelter to the homeless. Give clothes to those who need them, and do not hide from relatives who need your help.”¹¹⁵

Islam contains two complimentary types of charitable giving, Zakat and sadaqah. Zakat, one of the religion’s five pillars, is a mandatory donation of a fixed percentage of excess wealth while sadaqah is its voluntary counterpart. Muslims believe that Zakat helps to purify both the giver and receiver, and the rewards one receives both during and after life will be increased proportional to the amount of sadaqah given.¹¹⁶

Our most revered political leaders and foundational documents have carried on similar principles. The Declaration of Independence and the U.S. Constitution state, “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness,” and promote the “general welfare” of all our nation’s people.¹¹⁷ Language such as this, demonstrates that providing for each other and respecting human dignity are fundamental to who we are as an American people.

For decades, political dialogue has specifically highlighted housing as a critical element of this dignity. More than half a century after President Roosevelt declared that the United States had accepted a “second Bill of Rights,” one that included the right of every American to a decent home,¹¹⁸ President Obama echoed the belief when he said, “Just peace includes not only civil and political rights – it must encompass economic security and opportunity. For true peace is not just freedom from fear, but freedom from want.”¹¹⁹ Such political rhetoric has been backed up by laws, like the Housing Rights Act of 1964, which states “It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.”¹²⁰

These notions of providing for and protecting people in need reflect the most basic of our human moralities and are deeply rooted in our society and laws. However, when we allow and promote laws that target homeless persons, we risk a race to the bottom as our standards of care begin to slide downward – where what was once considered the least we as a society should do for those less fortunate becomes the most we will do, and the acceptable standard of treatment becomes

113 USCCB Administrative Committee, Catholic Teaching and Principles, available at <http://www.usccb.org/sdwp/catholicteachingprinciples.shtml>.

114 Leviticus 25:35; Proverbs 31:19

115 Isaiah 58:7

116 Koran 2:276; Koran 30:39

117 Declaration of Independence para. 2 (U.S. 1776); U.S. Const. pmbl.

118 Franklin D. Roosevelt, State of the Union Message to Congress (January 11, 1944).

119 Barack Obama, Nobel Peace Prize Acceptance Speech (December 10, 2009).

120 42 U.S.C.A. § 3601

shamefully inhumane. Laws that criminalize visible homelessness are immoral and offend our basic human instincts. They are contrary to the fundamental religious and political principals from which the American people seek guidance, and their existence demonstrates that we have fallen vastly short of our religious and foundational aspirations. These laws require Americans of all faiths and political ideologies to join together and advocate against them.

Constructive Alternatives to Criminalization

Domestic Examples

While many cities have laws and practices that target homeless people living in public spaces, some cities have programs and initiatives that work to serve the needs of homeless people in a more positive manner. Below are examples of constructive alternatives to the criminalization of homelessness from a variety of cities across the United States.

Seattle, WA: Redefining Property Banishment Policies

In late 2010, the City of Seattle reversed a police policy that allowed law enforcement officials to ban individuals from private property open to the public, such as stores and coffee shops, for little or no reason. The bans, called “trespass admonishments,” disproportionately affected homeless individuals by essentially criminalizing their state of being homeless and not having a stable location in which to spend time. In some instances, businesses signed coalition bans, so that an individual banned from one business’ property could be prohibited from frequenting all businesses in a complex.

Local advocates, with the support of the Law Center, worked toward the reform of police-issued bans prohibiting entry onto private property open to the public. Advocates and the City eventually came to an agreement that led to abolishment of the bans on private property and to the creation of a new system for addressing occupancy of these spaces.

Law enforcement officials, business members, and defense lawyers have been working to develop the new set of rules. The new rules will allow individuals to remain on these properties during business hours as long as they are not violating any of the business codes. The guidelines will make it harder for the police to perform arbitrary arrests of those who are present on private property open to the public.

Instead of banning, businesses have developed standards of conduct for those that frequent their property. The standards for conduct include clear guidelines prohibiting entry on the property after business hours and violations of the Seattle Municipal Code. Law enforcement officers will only contact individuals who are in violation of these clear guidelines. Violation of these rules will no longer result in a ban, but rather a warning regarding the rules of the property. Subsequent violations of the standards of conduct may result in further enforcement, but individuals who do not violate the standards are free to enter onto the property.

Seattle is also beginning the process of addressing similar bans within the park system, where an individual can be banned for up to a year for any violation of a park rule. Advocates are encouraging the City to reconsider bans from other public places as well, such as public transportation and libraries.

In working to change harmful banning practices, Seattle is making progress in creating an environment where homeless individuals in public spaces can be assisted rather than criminalized as they work toward a better life situation.

For further information, please contact Anita Khandelwal at anita.khandelwal@defender.org.

Portland, OR: The Portland Loo

In 2006, Portland Commissioner Randy Leonard initiated the development of The Portland Loo, an innovative kind of public bathroom that stays open 24-hours a day and is powered completely through solar energy. Currently, the City of Portland has a Loo in place in 4 separate locations.

The Portland Loo was developed through a partnership between the City, community group Public Hygiene Lets Us Stay Human (PHLUSH), designer Curtis Banger, and Portland law enforcement officials. The first Loo was installed in December of 2008 in Old Town Portland.

Due to the collaboration that went into development of the bathroom, The Portland Loo addresses public health, public safety, cost, portability and other concerns. The bathroom is made of durable stainless steel and intentionally includes louvers at the bottom so that public safety officials may see the feet of individuals inside and prevent illicit activity in the Loo. Each bathroom is ten feet by six feet in size, and contains a hand sanitizing station on the outside. The bathrooms are maintained twice a day by a local organization called Clean and Safe, which is an initiative of the Portland Business Alliance and Central City Concerns. The program employs formerly homeless and substance-dependent adults in a 6-month work and employment skills training program.

Since the implementation of The Portland Loo, city officials and community members have seen a decrease in public urination and defecation, and have not seen an increase in crime in or around the new bathrooms. Evaluation has shown that The Portland Loo has seen a lower share of negative incidents, drug paraphernalia, and alcohol bottles than many of the permanent public toilets in Portland that are open for only 10 hours a day. Additionally, feedback from community members once a Loo is installed has been overwhelmingly positive.

The Loo is an effective method for providing clean and convenient bathroom facilities for both homeless individuals and other community members. Providing a 24/7 public bathroom reduces the need for homeless people to resort to public urination or defecation and helps prevent the criminalization of this basic human need.

Each Loo costs Portland about \$57,000 to manufacture and about \$1,200 per month to maintain, making it an affordable option, particularly given the immense benefits it provides to homeless and housed people and the reduction of court and law enforcement costs due to fewer public urination and defecation offenses. The Loo can be installed at any location with a connection to a water source and a sewage line. The City of Portland is currently selling units of The Portland Loo for use in other cities at \$99,000 each. Profits will be used to maintain and build upon the Loo system in Portland. As of June 2011, four cities have shown initial interest in purchasing a Loo.

For further information, please refer to www.portlandloo.com, or contact Anne Hill, City of Portland, at Anne.Hill@portlandoregon.gov.

Puyallup, WA: Organized Encampments

Most cities around the country do not have adequate shelter space or affordable housing to meet the need, thereby leaving many homeless individuals forced to live in public spaces. Such a situation frequently leads to homeless persons being harassed for doing things they need to do to survive. The City of Puyallup, Washington, has come up with a temporary way to address the situation in a more realistic and appropriate way.

After a history of sweeps and enforcement of its anti-camping ordinance against the homeless population – despite the dire lack of shelter – the City of Puyallup recognized it needed to approach the issue of homelessness in a more constructive manner. Subsequent to an intensive advocacy campaign with a coalition of advocates, including the Law Center, the Puyallup City Council passed an ordinance in late 2010 that allows religious organizations to set up temporary encampments for homeless individuals, allowing these groups to fully exercise their religious beliefs in the importance of providing resources for homeless people.¹²¹ The encampments are to have a 40-person occupancy rate, and are equipped with facilities for personal hygiene and trash collection services. Only one 40-person encampment may be in operation in the city at any given time, and when one encampment closes a new organization may open one. Residents of the encampments agree to abide by a code of conduct that prohibits drugs, alcohol, and weapons within the encampments. Due to the encampments, homeless individuals, while still in a temporary living situation, will be able to maintain a more permanent residence that promotes safety, community, and access to important social services. The establishment of the ordinance may already be leading to a decrease in criminalization practices, because the ordinances establish both the reality of homelessness in Puyallup and homeless individuals' need for a secure location at which to reside.

Puyallup still has room to improve the living situation of its unsheltered homeless population by raising the number of individuals allowed in an encampment, permitting non-religious organizations to host tent cities, and reducing other barriers to encampment access. In 2010, Puyallup's estimated homeless population was 400 individuals,¹²² and the city currently lacks sufficient shelter space to meet this need. The additional shelter provided by 40 available spaces in tent cities still does not meet demand.

While encampments are clearly not a long-term solution to homelessness, they can strengthen the safety net for homeless individuals, and provide a safe living space for homeless people while more lasting housing solutions are developed. The City of Puyallup's willingness to work in partnership with local advocacy groups to address street homelessness can serve as a model for other cities facing similar challenges.

For further information, please contact Ted Brackman at tdbrackman@comcast.net.

¹²¹ For more information about this advocacy campaign, see Ted Brackman's account, "An Advocate's Success Story," in the Advocacy Manual.

¹²² Sara Schilling, Puyallup Oks Small Tent Cities for Homeless (Sept. 30, 2010), available at <http://www.thenewstribune.com/2010/09/30/1362343/puyallup-oks-small-tent-cities.html>.

Minneapolis and Hennepin County, MN

Arrests of homeless individuals cost Hennepin County \$1,440,807 between 2003 and 2004.¹²³ Recognizing that criminalizing homelessness is costly and does not address the root problem of homelessness, Hennepin County developed a 10-year plan in January 2007 proposing that a Hennepin County Outreach Collaborative be established to “design, implement, track, and evaluate the 24/7 dispatch/outreach team.” This effort calls for collaboration between outreach workers, law enforcement, the City of Minneapolis, business owners, faith communities, and others to work with the Minneapolis Police Department to reduce criminalization.¹²⁴ The plan also calls for cities within Hennepin County to make sure that their ordinances are not allowing for criminalization practices, and asks the Decriminalization Work Group to partner with advocates, service providers, and other groups to evaluate ordinances and see where changes are needed.¹²⁵

One of the main projects of the 10-year plan is the development of the Street Outreach Program, which was created in October 2007. The Street Outreach Program, run through St. Stephen’s Human Services, works with the Minneapolis Police Department and the City Attorney’s Office to address the needs of homeless individuals. The Program offers targeted outreach to homeless individuals and families in downtown Minneapolis. Staff of the Street Outreach program has access to the downtown police department’s radio and can therefore address any 911 calls that require a human services response instead of a criminal justice response.¹²⁶ Due to their efforts, there has been a 14 percent reduction in the number of arrests of homeless individuals between 2007 and November 2009¹²⁷, and over 1400 calls on homelessness were diverted from expensive police time to more appropriate social services. Additionally, between October 2007 and July 2010, the Street Outreach team took about 350 people who were living on the street and provided them with housing.¹²⁸

David Jeffries, Street Outreach Program Manager, believes the program has already succeeded in changing how law enforcement deals with homeless individuals. Many officers will now call social services or the Street Outreach Program instead of using traditional arrest protocol. Law enforcement officials have also been making more referrals to courts, city attorneys, and probation officers in recognition of the complex and inter-departmental nature of homelessness issues.

Another aspect of the 10-year plan is the work of the Minneapolis Downtown Improvement District to collaborate with public and other private partners to address livability issues of homeless people. Additionally, Hennepin County has started a program called St Stephen’s

123 Minneapolis/Hennepin Office to End Homelessness, *Heading Home Hennepin: The Ten-Year Plan to End Homelessness in Minneapolis and Hennepin County*, 21 (2006), available at

http://www.co.hennepin.mn.us/files/HennepinUS/Research%20Planning%20and%20Development/Projects%20and%20Initiatives/Homelessness/HHHReport_web.pdf.

124 *Id.* at 22.

125 *Id.* at 23.

126 Minneapolis/Hennepin Office to End Homelessness, *Where We Are Now: Heading Home Hennepin 2011*, 18 (2011), available at <http://www.headinghomeminnesota.org/assets/files/HHH-WhereWeAreNow2007-2010.pdf>.

127 *Id.*

128 *Id.*

Court at which individuals can address legal concerns related to housing or livability crimes such as trespassing.

In September 2010, the National Alliance to End Homelessness (NAEH) highlighted Hennepin's plan for its effective approach in addressing youth homelessness.¹²⁹ Since the plan's inception in 2007, the community has created over 1,400 new housing units (one-third of its 5000 unit goal). Through the Frequent Users Service Enhancement Project (FUSE) of the 10-year plan, Hennepin County provides housing and supportive services to individuals who have previously been frequent users of the criminal justice system and emergency services. Hennepin saves \$13,000 a year on each of the 100 homeless individuals that benefit from FUSE alone.¹³⁰

For more information, contact Street Outreach Program Manager, David Jeffries, at djeffries@ststephensmpls.org.

Orlando, FL: IDignity

Lack of identification is a large problem for many homeless individuals, even before taking into account the loss of important documents through sweeps of homeless encampments. Homeless people are at disadvantage when trying to apply for identification due to the lack of a stable address. After September 11th, several states developed stricter regulations about obtaining identification that have led to further difficulties for homeless individuals. Without adequate photo identification, many homeless individuals are denied access to crucial public benefits, such as Supplemental Security Income and the Supplemental Nutrition Assistance Program (formerly known as food stamps)¹³¹ that could help them transition out of homelessness and cease to burden the public system. Clearly, homeless individuals have a need for support in acquiring government identification, yet instead many cities take the opposite approach of confiscating their belongings, which often separates homeless people from identification they do possess.

Despite the general trend, a model for helping homeless individuals gain identification does exist. Once a month in Orlando, Florida, government agencies coordinate with local service providers to run an event called IDignity, where poor and homeless individuals can come to apply for government identification. The program began in May 2008 as an extension of Project Homeless Connect, and has been widely used by poor and homeless people from the Orlando community. IDignity is hosted at Orlando Union Rescue Mission, and by 6:00 a.m. on the morning of an IDignity event it is common for 250 individuals to already be in line.

Government agencies that attend IDignity include the Department of Motor Vehicles, the Social Security Administration, the Health Department, and the Department of Veteran's Affairs. Individuals who attend the event can apply for identification such as a driver's license, Social Security card, or birth certificate. Some identification documents can be printed on-site, and IDignity hosts a weekly document distribution service where individuals can collect IDs for which they have to wait longer. Additionally, IDignity covers the costs of applying for

¹²⁹ National Alliance to End Homelessness, *Beyond Planning: Minneapolis and Hennepin County*, available at <http://www.endhomelessness.org/content/article/detail/3424>.

¹³⁰ National Alliance to End Homelessness, *Hennepin: Beyond Planning*, 1 (2010), available at <http://www.endhomelessness.org/content/article/detail/3424>.

¹³¹ National Law Center on Homelessness & Poverty, *Photo Identification Barriers Faced by Homeless Persons: The Impact of September 11* (April 2004), at <http://www.nlchp.org/content/pubs/Photo%20ID%20Barriers1.pdf>.

identification, which is usually \$25 per person. The program is run through the help of a large volunteer network and the support of five downtown churches.

A testament to the dire need for such services, IDignity has served over 6,500 unduplicated clients over the past two years. The organization has also started satellite programs in Sanford, FL and Deland, FL. Though no official evaluation of the program has been completed, anecdotal evidence shows that services received through IDignity have led to an increased ability for many homeless and poor individuals to secure employment, housing, and public benefits.

For further information about IDignity, please visit <http://www.idignity.org/> or contact Jacqueline Dowd at jacquelinedowd@yahoo.com.

National: 100,000 Homes Campaign

The ultimate positive alternative to criminalizing homelessness is providing people experiencing homelessness with homes. Helping people move off the streets, rather than moving them into jail, benefits not only the individual in need, but the entire community. Once an individual is housed, he or she escapes cycling in and out of the criminal justice system for offenses related to living in public spaces.

The 100,000 Homes campaign began officially in July of 2010, recognizing the important principle that providing housing is the way to end homelessness. The campaign is a nation-wide project to house 100,000 chronically homeless individuals by July 2013, by providing a model and resources that communities can use to access local housing opportunities. Common Ground, an organization committed to providing affordable housing, began the campaign, and the newly formed organization Community Solutions will continue the work. The model outlines 5 different steps and provides in-depth instructions and tools for achieving each:

1. Build the local campaign team and increase political will
2. Clarify the demand
3. Line up the housing and support resources
4. Move people into housing
5. Help people stay housed

The campaign developed from a pilot project, where members of Common Ground decided to address the long-standing homeless population in New York City's Times Square. Instead of merely continuing to provide services to those homeless individuals, Common Ground staff chose to collect the name and picture of each of the homeless individuals in the square. They then worked to find housing for 18 of the homeless Times Square residents and for other chronically homeless individuals that those residents knew. Overall, Common Ground and its partners were successful in greatly reducing the homeless population in the square.

Common Ground used its experiences in Times Square to develop tools that would become the foundation of the 100,000 Homes campaign, such as the Vulnerability Index, which is used to profile homeless individuals in a community and to rank them in order of their likelihood to die on the streets. Outreach workers then use the information to select the most vulnerable

individuals and commit to housing them. Communities find homes for those they have committed to house by working with city government and local housing providers, according to suggested steps that can be found on the 100,000 Homes website.

Phoenix, Arizona is one of the initial 100,000 Homes communities, where the program is implemented in the form of Project H3: Home, Health, Hope. Project H3 has succeeded in housing 40 homeless individuals since officially becoming part of the campaign and has a 100 percent retention rate at one year into the program. In addition to securing housing for homeless people, Project H3 has helped develop important relationships between homeless individuals, community organizations, government entities, and private partners.

Though the 100,000 Homes campaign is still too early in its development to fully evaluate, the program has seen average housing retention rates of 88 percent from communities that have sent in information about their programs thus far. As of July 2011, over 10,300 individuals have been housed through 100,000 Homes.

To learn more about the program, please refer to <http://100khomes.org/> or contact 100,000 Homes Program Manager Kat Johnson at kjohnson@cmtysolutions.org.

International Examples

Scotland: Implementing a Human Right to Housing

The Homeless Etc. (Scotland) Act of 2003 (“the Act”) brought Scotland into the forefront of countries recognizing a right to housing and taking affirmative measures to prevent and address homelessness. This law creates an immediate right for involuntarily homeless people, with certain priority needs, to placement in temporary housing with the assumption that they will be moved within a year to permanent housing. The priority need test – for groups like those fleeing domestic abuse, disabled people, children, those reentering society from the prison system, etc. – is to be phased out by 2012, resulting in a right to housing for all homeless people. Under the Act, local authorities are required to ensure that the accommodation made available qualifies as permanent accommodation (e.g. no long shelter stays). The duty of the state to provide accommodation continues even if the individual temporarily finds other short-term accommodation; only when permanent accommodation is secured does the duty end. The Act is combined with a number of other policy initiatives, including heightened eviction protections and the Mortgage Rights Law (2001).

Placement into housing is combined with a right to “[a]ny service which provides support, assistance, advice or counseling to an individual with particular needs, with a view to enabling that individual to occupy, or to continue to occupy...residential accommodation.” The law makes explicit that though this may cost more in the short-term, over the long-term this approach will be more efficient by avoiding the previously existing demand for repeat services. Under the Act, families with children must be placed in housing appropriate for the entire family (children are not separated from their parents, as in many U.S. jurisdictions). The Act also includes a right to have eligibility determinations reviewed for those who believe their rights are not being respected.¹³²

The Act requires localities to create local action plans, and provides guidelines to facilitate the implementation of those plans, such as restricting a landlord’s ability to evict a tenant who is behind on rent due to a delay in receiving public housing benefits. The fundamental guiding principle is that accommodating homeless people appropriately, with identified and relevant levels of support and without restriction or hurdles, will increase the likelihood of success in preventing and alleviating homelessness in the long term.¹³³

In 2011, the Homelessness Task Force (HTF) reviewed Scotland’s progress in combating homelessness through the human rights perspective. While the vision of Scotland’s homelessness policies are groundbreaking and progressive, much work is left to be done in order for Scotland to realize its policy ideals. The Homelessness Monitoring Group (HMG), which was tasked with tracking the progress of the recommendations, has not met since 2006, and should reconvene to continue its mission. Additionally, while the number of homeless individuals in transitional housing has increased by over 6,000, Scotland has faced challenges in finding a sufficient

¹³² See Housing (Scotland) Act 1987, Ch. 35A.

¹³³ National Law Center on Homelessness & Poverty, *Housing Rights for All: Promoting and Defending Housing Rights in the United States*, 2009, available at www.nlchp.org.

number of affordable dwellings to permanently house all homeless individuals without regard to priority.¹³⁴

Argentina: Community Integration of a Mixed-Housing Project

After the 2002 economic crisis crippled its social services infrastructure, the Argentine government embarked upon a creative collaboration with the nation's human rights groups in order to provide housing and other services to its people. The Movimiento Territorial de Liberación (MTL), primarily made up of refugees and economic migrants, was Argentina's first community-led social organization to receive municipal funding for the creation of a large-scale housing project. The MTL National Board, guided by the decisions of its neighborhood assemblies, trained its members in the building trades and used the government funds to purchase land in a depressed area of Buenos Aires on which it constructed the multi-use Monteagudo complex.

MTL trained hundreds of its members, many of them women, in the construction trades and the resulting community-managed complex not only includes 326 housing units for formerly homeless and mixed-income MTL members, but is also home to retail stores, communal areas, green spaces, child-care and healthcare facilities, a technical training facility, and a community radio station. One element of Monteagudo's success is its integration and collaboration with the surrounding neighborhood and community. The complex is purposefully self-sustaining in order to decrease its negative impact upon the neighborhood. In addition to providing key social services to its residents, it has improved the overall infrastructure of the neighborhood by refurbishing an abandoned factory, improving run down public spaces, and creating 400 permanent jobs for previously unemployed MTL members. "They opened the street that we had asked for many times, and this integrates the neighbourhood... They repaired the front sidewalks and the public space in general... We now have a small public park here."¹³⁵

Although Montagudo was built by members of the MTL cooperative, it is not a self-built community, as the construction process was kept separate from the allocation of housing. Thus, participation in the construction of the complex did not guarantee housing within it. Housing placement was allocated based upon a number of factors, including devotion to the MTL cause and the needs of the overall community. While the Monteagudo complex is a promising model, some critics have pointed out that since income level was only one of many factors considered in determining housing allocation, some of MTL's most needy may have been found ineligible for placement.

For more information, visit <http://www.worldhabitatawards.org>.

¹³⁴ Shelter Scotland, *Progress and Drift: A Review of the Homelessness Task Force Recommendations*, available at http://scotland.shelter.org.uk/_data/assets/pdf_file/0008/332990/HTF_FINAL_Report_Feb_2011.pdf

¹³⁵ Mariano Scheinsohn and Cecilia Cabrera, *Social movements and the production of housing in Buenos Aires; when policies are effective*. *Environment and Urbanization* 2009, 21:109, available at: <http://eau.sagepub.com/cgi/content/abstract/21/1/109>

Kenya: Gaining Security of Tenure

Until recently, Kambi Moto was just another one of the informal settlements that houses nearly 60 percent of Nairobi's population. Much like tent cities around the US, the land upon which Kambi Moto sits was originally intended as a parking lot before becoming home to hundreds of families living in overcrowded structures made from wood and other scrap materials. Kambi Moto, or 'place of fire', was named for the fast burning and destructive fires that engulfed the settlement several times due to the high density of the wood and scrap metal housing structures. Resident 'landlords' regularly extracted exorbitant 'rents' from the dwellers but provided them with no security of tenure¹³⁶, sanitation, or other basics of living. This all changed when a team of architects, planners, and surveyors (the Technical Team) engaged the residents of Kambi Moto and collaborated with the Nairobi City Council, local universities, and local community organizations to take affirmative steps toward housing security.

The Technical Team worked with the city council to grant the settlement's residents title to the land upon which they had been living. The settlement was divided up equally and individual titles were issued to each of the 270 households. The Technical Team designed housing options for the residents that incorporate the use of local materials, and then received resident approval on which design to implement. Residents were trained in both the procurement of many raw materials as well as in the actual construction of their new homes.

Although outside funding from Slum/Shack Dwellers International (SDI) and a local NGO supported the work of the Technical Team, a creative community banking scheme allowed residents to finance construction costs independently: each household invested 10 percent of the construction price and received a low interest loan from a community organization set up by the Technical Team to finance the rest. Homes were then built incrementally, thirty at a time, so that the burden upon the community to house the displaced families was easily managed. Across Kenya, Kambi Moto serves as a sustainable and self-empowering model for upgrading informal settlements.

For more information, visit <http://www.worldhabitatawards.org>

136 Security of tenure is "the certainty that a person's rights to land will be recognized by others and protected in cases of specific challenges." FAO Corporate Document Repository, What is Land Tenure, last visited June 30, 2011, available at <http://www.fao.org/DOCREP/005/Y4307E/y4307e05.htm>.

Federal Responsibility to Combat Criminalization

In addition to municipal level action to promote positive approaches to homelessness, the federal government has a responsibility to discourage the criminalization of homelessness. This responsibility stems from the government's obligation to protect the constitutional, civil and human rights of *all* people – including those who are homeless. The federal government also has a very specific statutory responsibility to eliminate criminalization: The HEARTH Act of 2009 identified the counterproductive nature of criminalization measures and required the U.S. Interagency Council on Homelessness (U.S. ICH) to “develop constructive alternatives to criminalizing homelessness and laws and policies that prohibit sleeping, feeding, sitting, resting or lying in public spaces when there are no suitable alternatives, result in the destruction of a homeless person's property without due process, or are selectively enforced against homeless persons.”

On December 1, 2010, the U.S. ICH and the Department of Justice's Access to Justice initiative hosted a summit on constructive alternatives to criminalization. The stated goal of the summit was to encourage cities attending to pursue approaches to homelessness that do not involve penalizing homeless individuals for performing life-sustaining activities in public. The summit featured models in policing, court systems, systems of care, and volunteerism. Attendees included city officials, providers, advocates, and law enforcement officials from across the country, as well as representatives from various federal agencies, including the Departments of Justice, Housing and Urban Development, Health and Human Services, and Veterans Affairs.

While hosting the summit was helpful, the U.S. ICH and the federal government should do more on a regular basis to discourage criminalization and encourage cities to pursue more productive approaches to street homelessness. Such actions should include:

- The U.S. ICH hosting regional summits to involve more cities in a discussion around appropriate alternatives to criminalization;
- Federal agencies leveraging federal funding to discourage criminalization, such as providing bonus points in applications for funding for communities that do not engage in criminalization and pursue alternate solutions;
- Federal agencies preventing the use of federal grant funding to support criminalization at the state or local level;
- The Department of Justice investigating civil rights abuses of homeless persons in cities across the country to put a stop to such practices; and
- Federal agencies removing barriers for homeless individuals in accessing benefits and services, such as ensuring that those eligible for the HUD-VASH program are more quickly identified and housed.

When the federal government shines a light on communities with counterproductive approaches to homelessness, these communities may be more motivated to pursue positive approaches. In

addition, to the extent federal benefits or housing programs have the ability to move people off the streets and into services and housing, the homeless population living on the streets of our cities will decrease. Such a reduction may make it less likely a city will turn to measures targeting individuals living in public spaces.