

Illegal to be Homeless

The Criminalization of Homelessness in the United States

Published by the National Coalition for the Homeless and the National Law Center on Homelessness & Poverty, with outreach and organizing by the National Homeless Civil Rights Organizing Project.

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From the National Coalition for the Homeless:

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Executive Summary

I. Introduction

The following report will document that people experiencing homelessness are subject to basic violations of their civil rights through the



unconstitutional application of laws, arbitrary police practices and discriminatory public regulations. Local governments, police departments, and local business improvement districts, from our largest cities to our most rural communities, are diverting precious public resources and funding to penalize people for being homeless. Lacking private spaces in which to carry out life-sustaining activities such as sleeping, resting, storing personal belongings, or activities associated with personal hygiene, people experiencing homelessness face the further indignity of arrest. They will still be homeless when

released but leave with a criminal record and another barrier to obtaining housing. These short-sighted laws and practices may make good sound bites but only serve to invest more tax dollars in jails than in housing, health care and services.

This report documents that criminalization is not only a local issue but is also national in scope and demands a federal response. *We will make the case that there is a pattern and practice of civil rights violations and unconstitutional behaviors by local government authorities including the police and other city agencies. These practices extract enormous economic, social, and individual costs and do nothing to alleviate the root causes of homelessness.* The National Coalition for the Homeless, National Law Center on Homelessness & Poverty, and local member organizations share the concern of local business, police departments and government that there are people sleeping on our nation's sidewalks. We believe that working toward ending the *causes of homelessness* and not simply removing homeless people from view is cost effective, as well as just, and if presented to the general public in moral and economic terms would be widely supported.

This report will highlight both patterns of criminalization and examples of positive work being done by local governments and police departments in partnership with advocates. *While we are heartened by the examples of some compassionate local government and police responses, we call on local governments to take the next step and educate communities about the root causes of homelessness, taking action to address them.* We are hopeful that the following report will be a tool for local organizing and public

education around the issues of criminalization and the need to create partnerships toward achieving our common goal of ending homelessness.

The findings and recommendations cited in this report are more critical than ever.

The recent events of September 11, 2001, have already impacted people experiencing homelessness in several fundamental ways. Access to public space has been severely restricted in many communities. For people experiencing homelessness who live in public spaces without access to shelter, without an ID showing an address, access to public restrooms, and places to store their belongings, the implications are disastrous. The economic recession has resulted in the lay off of tens of thousands of people, and hiring in many sectors is at a standstill. The newly hired who have benefited from the economic expansion of the past several years will be among the first to lose their jobs. The resultant decrease in tax revenues means less public funding for housing and services for the very poor, and many foundations and charities report a sharp decline in donations to programs which traditionally served the poor.

II. Background

The National Coalition for the Homeless (NCH), established in 1984, is the oldest national organization founded to advocate on behalf of people who are homeless. NCH is comprised of local and statewide homeless coalitions, service providers, faith-based organizations, grassroots activists and people experiencing homelessness. The National Law Center on Homelessness & Poverty (NLCHP), established in 1989, works toward solutions that address the causes of homelessness, placing homelessness in the larger

context of poverty. To this end, the NLCHP employs litigation, legislation, and education of the public as critical strategies. NCH and the NLCHP, nearly 20 years ago, began to hear reports from communities throughout the United States that local responses to increasing homelessness were the arrest and police harassment of individuals experiencing homelessness through the selective enforcement of existing laws and the passage of laws targeting people experiencing homelessness. This report is the latest effort to document unconstitutional local practices that, when analyzed in the aggregate, reveal a national trend of criminalization of people experiencing homelessness. The NLCHP has previously published four such reports. Extensive case law is provided in Appendix II.

Local governments often attempt to regulate visible homelessness as a result of pressure by downtown business interests who are unaware of alternative responses that address root causes of poverty and homelessness. Local police and city parks and sanitation workers are dispatched to “clean up” downtown areas with little or no training on what local resources exist or how to work effectively with people who may be experiencing mental health, chemical addiction or chronic medical issues.

This report is the latest in the effort to document local practices which have, when challenged, often been modified or stopped and when litigated, have often been determined in both local and federal courts of law to be unconstitutional. This report also highlights organizing victories and puts forth recommendations based on successes in

communities throughout the country, during the past 20 years of our collective experience.

III. Purpose of the Report

The purpose of the report is to document the pattern and practice of civil rights violations of people experiencing homelessness nationwide as well as to document effective strategies to organize and litigate for basic constitutional protections. NCH has been working to move the U.S. Department of Justice to investigate hate crimes and/or violence against people experiencing homelessness, and NCH is working toward moving the federal government to establish homelessness as a protected class. The NLCHP has filed briefs in courts across the country supporting homeless people's challenges to ordinances that render criminal activities homeless people often must perform in public, and works with groups to implement constructive alternatives to criminalization.

We recognize that data collection is key to documenting the problem and to showing that local wins are possible and worth fighting for, and to demonstrate that there do exist positive models. We intend for this report to contribute to the development of linkages among communities, to be a resource for activists as they work toward bringing local public officials to the realization that proposed or existing laws and practices criminalizing homelessness are unconstitutional and counterproductive, and to move them to developing solutions that address the root causes of homelessness. We are hopeful that the following report will serve as a tool for both local governments and

grassroots advocates to develop strategies that do not penalize community residents for their lack of housing.

IV. Methodology

Fifty seven (57) communities in twenty nine (29) states, the District of Columbia and Puerto Rico were surveyed, using a standard survey instrument developed by NCH's Civil Rights Work Group and the NLCHP (Appendix V). The survey was conducted by the staff and volunteers of the National Homeless Civil Rights Organizing Project which works with local grassroots advocates, organizers and service providers to ensure the basic constitutional rights of people experiencing homelessness by building power for homeless people and their allies. Many of those interviewed are engaged at the local level in monitoring arrest and policing patterns as they impact people experiencing homelessness. All of those interviewed for this report have daily contact with people experiencing homelessness, and some interviewed are currently homeless. This report represents the most substantive attempt to date to document how criminalization impacts people experiencing homelessness in local communities throughout the United States. Taken in the aggregate, these reports point to an unacceptable pattern and practice of unconstitutional police practices with national scope.

V. Problem Statement

The passage of laws that target behaviors associated with the state of being homeless, such as sleeping, bathing, sitting, cooking, lying down, urinating, or storing personal belongings in public spaces are unconstitutional because collectively, *they target people*

based on their housing status, not for behaviors that, in and of themselves are criminal.

These laws and practices are designed to criminalize homelessness without mentioning the words “homeless” or “housing” because they target behaviors most likely to be conducted by people experiencing homelessness. The following report will demonstrate that people experiencing homelessness are targeted in a discriminatory manner for conducting what is generally considered private behavior in public spaces because they lack the privacy, housing or even shelter in which to conduct them.

VI. Overall Findings

A. The systematic abuse of the civil rights of homeless people is used as a strategy to remove homeless people from sight by local governments and private business districts.

- Community revitalization efforts have led to increased incidences of policing to remove homeless people from gentrified areas and areas frequented by tourists.
- Business Improvement Districts often hire private security guards to restrict access to areas of the community based on economic profiling.
- Existing laws are selectively enforced, and new laws created with the goal of moving people experiencing homelessness out of certain areas.

- Access to public space for people experiencing homelessness is being restricted: public parks are being designated as “family parks” disallowing individuals without children; communities invest public money to insert bars in the middle of park benches to prohibit people from lying down on them, and people are being banned from designated neighborhoods altogether in some cities, from Athens (GA) to Cincinnati to Portland (OR).
- Sweeps before sporting or political events are cited in dozens of communities interviewed.
- People experiencing homelessness report incidences of police brutality in communities from Jacksonville (FL), to Sioux Falls, (SD).
- Fines from \$50 to \$2,000 are being imposed on the poorest of our communities because they lack housing, and without the ability to pay, fines result in jail time.
- Police resort to waking up people who are sleeping outside with nowhere to go, ordering them to “move along” in communities, from Valdosta (GA), to New York City.

B. 100% of communities surveyed lack enough shelter beds to meet demand and housing costs are out of reach for many, including the working poor.

- The number of people experiencing homelessness has increased due to a shortfall in housing units available for the very poor on the private market and in the public sector.
- More than 37% of those people seeking shelter are unable to access it, according to the U.S. Conference of Mayors in 2001.
- Mental health and drug courts further restrict access to shelter and programs for the general population because beds are set aside for sentencing.
- There is no state or local jurisdiction in the country where minimum wage income can afford HUD's fair market rents for housing.
- Declining availability of income supports like TANF and SSI contribute to increased homelessness.
- Families that transition from welfare to work still do not make enough to afford housing in their communities.

C. The lack of access to health care, including mental health and substance abuse treatment, exacerbates homelessness, and people living with mental health issues are disproportionately impacted by criminalization in many communities.

- People needing or receiving treatment or medication are reportedly unlikely to continue to receive it in jail.
- Nationally 16% of inmates in jails and prisons have a diagnosed mental illness. That number is four times the number of Americans in state mental hospitals.
- The Los Angeles County jail is the largest mental health facility in the United States.
- Police are using deadly force to subdue mentally ill homeless persons.

D. Communities are diverting scarce resources from solutions for homelessness to criminalization.

- The cost of arresting, processing and jailing homeless people is higher than the cost of creating housing.
- Although few communities have committed resources to tracking arrests by housing status, in Atlanta alone, 18,000 to 19,000 people were cited for “quality of life” violations annually, and 43,000 were cited in one year in San Francisco.
- People experiencing homelessness in Baltimore spend an average of 35 days per year in jail.

- Criminalization of homelessness leads to increased barriers to accessing shelter and housing due to a criminal record.
- People experiencing homelessness often plead “no contest” instead of “not guilty” to get off with time served, due to lack of legal representation and a lack of knowledge of their rights.

E. Replicable models are being developed in communities nationwide as a result of partnerships between people who are homeless, their allies and local government.

- Police departments have teamed up with outreach workers and service providers to create innovative models in communities from Sacramento to Memphis.
- Legal victories in communities from Portland (OR), to Austin to Cleveland to Miami set important national precedent which can inform local advocacy.
- Although no precedent is set, settlements in class action lawsuits brought by homeless people are often more flexible than judicial decisions, such as in *Richardson v. Atlanta*.
- Litigation combined with grassroots organizing is more effective than relying on the court system.

- Grassroots organizing has effectively changed anti-homeless city policies from Baltimore to Portland (OR) to San Francisco.

Recommendations

I. Educate people experiencing homelessness, and their allies, about their constitutional rights.

- People experiencing homelessness must be educated about their civil rights and have access to legal representation when those rights are violated on an individual and collective basis;
- People experiencing homelessness must be involved in public policy decision-making at the local level;
- Efforts to ensure that the civil rights of people experiencing homelessness are respected must link with mainstream civil rights organizations;

II. Immediate support for local monitoring projects and data collection activities to challenge local abuses, support local best practices, and building a national resource data bank.

- Police should be required to document the housing status of each person they arrest or to whom they issue citations.

- A central tracking system that is independent of the local police force should be established to track patterns of abuse and harassment.
- Citizen review boards should be established and include representation of people experiencing homelessness, and be charged with reviewing all arrests and citations of people experiencing homelessness.
- Local data should be forwarded to a statewide and national entity charged with monitoring police practices in relation to people experiencing homelessness.
- Training should be required of all police officers on homelessness and civil rights as relevant to people experiencing homelessness.
- Police should contact outreach workers to assist with interventions with people experiencing homelessness.
- Best practices should be documented and distributed to police departments, local governments, grassroots, and advocacy organizations.

III. Federal action is required to investigate patterns and practices of the civil rights violations of people experiencing homelessness.

- Adequate federal funding to create housing affordable for the very poor will address the primary root cause of homelessness, thereby eliminating unconstitutional laws and practices.
- Pass federal protected class resolution based on socio-economic status.
- Voting is a right. Voter registration should not be based on housing status.
- Hate crimes legislation must be passed at the federal level and fully enforced.
- Ensure the rights of homeless children to mainstream education and other public services.
- Litigation around selective enforcement, zoning regulations and housing exclusion practices must be aggressively pursued.
- Federal funding to local communities that criminalize homelessness should be suspended.

IV. Combine litigation with grassroots organizing and public education efforts.

- All people experiencing homelessness who are arrested must be advised of their right to counsel and given the phone number of an advocacy organization to track and independently document the arrest.
- Local police-watch projects should be fully funded so that people experiencing homelessness and their allies can independently document police intervention.
- Develop, document, disseminate and replicate successful organizing models.

V. Strengthen public education efforts.

- Public education activities around cost of incarceration vs. housing is critical.
- Public support for long-term solutions revolves around public education. Investment in adequate local community resources depends upon public support.

Reporte del año 2002

La Incriminación la pobreza y desamparo:

Sumario Ejecutivo

I. Introducción

A este reporte documentara que la gente experimentando desamparo están siendo objeto de violaciones básicas de sus derechos civiles mediante la aplicación inconstitucional de leyes, practicas policiacas y regulaciones publicas, El gobierno local, el departamento de policía, y la practica de mejoramiento local en los negocios distritales de nuestras grandes ciudades, hacia nuestras comunidades mas rurales para invertir los preciados recursos y fondos para penalizar a la gente por ser pobre y desamparada. La negación de espacios privados en los cuales se llevarían acabo actividades primordiales como dormir, descansar, y tener un lugar para almacenar sus propiedades personales o llevar acabo actividades asociadas con la higiene personal, la gente que experimenta desamparo se enfrenta a arrestos indignantes, y aun así continuaran desamparados después de que son puestos en libertad aun así tendrán un récord criminal aunado a otras barreras que le impedirán adquirir vivienda. Estas practicas apresuradas de las leyes pueden tener un efecto inmediato pero solo sirven para invertir mas dinero de los impuestos en cárceles que en las viviendas, cuidado medico y otros servicios.

Este reporte esta documentando que la incriminación es un problema local sino nacional en el sentido de demandas a una respuesta federal. ***Nosotros presentaremos nuestro caso de que existe un vicio en la practica de los violaciones a los derechos civiles y un comportamiento inconstitucional de parte del gobierno y autoridades incluyendo a la policía , y a otras agencias de la ciudad, Estas practicas son un enorme extracto a nuestra economía, social e individual la cual no emplea nada para aliviar las causas del desamparo.*** La Coalición de los desamparados, El Centro Legal Nacional en Contra de la pobreza y desamparo, y organizaciones locales, comparten la misma preocupación de los negocios locales, el departamento de policía y el gobierno de que hay gente durmiendo en las calles de esta nación.. Nosotros creemos que trabajando encaminados para poner fin a las causas que provocan el desamparo y no simplemente removiendo a los desamparados de la vista y planteando esta estrategia como efectiva y buena al presentarla al publico en general en términos tanto morales como económicos. Con la convicción de que será zampliamente apoyada.

Este reporte enfatiza ambas circunstancias de incriminación y ejemplifica como positivo el trabajo hecho por el gobierno y la el departamento de policía con el apoyo de agencias que apoyan sus mismas creencias. Mientras nos encontramos ante el disfrazado ejemplo de compasión del gobierno local y la respuesta de la policía citamos al gobierno local para tomar el siguiente paso y así educar comunidades acerca de las raíces que generan la pobreza y el desamparo y proveer los medios efectivos para poner le fin. Tenemos una gran esperanza de que el siguiente reporte será una herramienta para las organizaciones locales y de educación al publico con referencia a los asuntos de incriminación y la

necesidad de crear alianzas hacia el logro de nuestras metas comunes que nos lleven a la extinción del desamparo.

Los resultados y recomendaciones citados en este reporte son mas críticos que nunca.

El evento reciente de septiembre 11, 2001 ha impactado a la gente que experimenta el desamparo de muchas formas fundamentales. El acceso al espacio publico ha sido severamente restringido en muchas comunidades . Para la gente desamparada que vive en lugares públicos sin acceso a refugios, sin identificación que muestre un domicilio, acceso a baños públicos y un espacio y un espacio para almacenar sus propiedades las implicaciones son desastrosas. La recesión económica trae como resultado en el corte de miles de personas y la admisión de nuevos trabajadores permanece estática. Las recientes contrataciones que se han beneficiado de la expansión económica durante los años anteriores se encontraran con lo primero que es la perdida del empleo . La disminución de impuestos como resultado de la recaudación de impuestos que será menor, y el cual dará menos fondos encausados a la vivienda y servicios para la gente de muy bajos recursos así como fundaciones y actos caritativos que han disminuido sus donaciones a estos programas que tradicionalmente ayudan a la gente pobre.

II. Hechos Históricos

La Coalición Nacional para los desamparados (NCH es la mas antigua organización a nivel local y estatal. fundada para defender y abogar por las personas quienes son desamparadas . NCH esta compuesta de coaliciones de desamparo, proveedores de servicio, organizaciones de fe, activistas así como de gente experimentando desamparo.

El Centro Legal en contra de la pobreza y el desamparo (NLCHP), Establecida en 1989, trabaja para lograr soluciones que pongan fin a las causas del desamparo, poniendo a los desamparados en el mas largo contexto de pobreza. Para esto, NLCHP emplea los métodos de litigación, legislación, y educación del publico como estrategia critica.

NCH y NLCHP tienen acerca de 20 años que empezaron a escuchar reportes de las comunidad a través de los Estados Unidos que respuestas locales que acrecentaban la población en desamparo estaban sufriendo arrestos y acoso policiaco mediante en uso de la existente ley y el pasaje de leyes dirigidas a la gente experimentando desamparo. El NLCHP ha publicado previamente cuatro de estos reportes. Un caso legal detallado se provee en apéndice.

El gobierno local regularmente intenta regular el desamparo visible como resultado de una presión por mercado central de intereses quien desconoce la solución alternativa para enfrentar las raíces causantes de la pobreza y el desamparo. La policía local, los trabajadores que limpian los parques y los empleados de sanidad están siendo enviados a "Limpiar" El centro de la ciudad con poco y en muchos casos nada de entrenamiento adecuado para proporcionar información sobre opciones existentes o de como trabajar efectivamente con gente que puede estar experimentando problemas de salud mental, adición a los químicos o problemas médicos crónicos.

Este reporte es el ultimo de los esfuerzos para documentar los problemas

que tienen, cuando se enfrentan a ser modificadas o se detienen y cuando la litigación ha sido determinada como inconstitucional. Este reporte también enfatiza las victorias de organización y menciona cuatro recomendaciones basadas en logros dentro de comunidades a través del país durante los 20 años de experiencia colectiva.

III. Propósito de el Reporte

El propósito de este reporte es documentar el problema y la práctica de la violación a los derechos civiles de la gente experimentado desamparo a través de la nación así como una estrategia efectiva para organizar y litigar para la protección básica constitucional. EL NLCHP ha entablado un queja in las cortes a través de el país apoyando los luchar contra los desafíos en que viven los desamparados usualmente deben presentarse en publico, y trabajar con grupos para implementar alternativas constructivas en contra de la incriminación. NCH ha estado trabajando para mover al Departamento de Justicia a investigar crímenes de odio y/o violencia en contra de la gente que se encuentra desamparada, NCH trabaja a través del movimiento de el gobierno federal para establecer el desamparo como una clase que debe ser protegida.

Nosotros reconocemos que la colección de datos es la clave, para que tanto el problema como la presentación de los éxitos sean posibles y necesarios para luchar cuando existen modelos positivos. Intentamos en este reporte contribuir a el desarrollo de alianzas a través de la comunidad, Y proporcionar un medio para que los activistas en tanto trabajan para atraer a oficiales locales públicos al entendimiento de que las reglas propuestas o existentes y practicas en aras de incriminar a la gente desamparada son

inconstitucionales e improductivas y los nueva desarrollar soluciones que se ataquen las raíces que causan el desamparo. Ponemos nuestra esperanza de que este reporte servirá como herramienta para el gobierno así como todos los que abogan por la causa de poner fin a la incriminación y penalización de los residentes de la comunidad por el hecho de carecer de vivienda.

IV. Metodología

57 (Cincuenta y siete) comunidades en veintinueve estados , el Distrito de Colombia y Puerto rico. Fueron entrevistadas, usando el usando el cuestionario estándar desarrollado por el grupo de trabajo de derechos civiles NCH's el NLCHP (apéndice V). El cuestionario fue conducido empleados y voluntarios de El proyecto de organización Nacional de desamparados el cual trabaja con dirigentes , organizadores, y proveedores de servicios para asegurar los derechos básicos constitucionales de la gente experimentando desamparo. Todos aquellos entrevistados para este reporte tuvieron contacto cotidiano con gente experimentando el desamparo y algunos entrevistados continúan siendo desamparados. Este reporte presenta el mas substancial intento de documentar como la incriminación esta afectando a la gente desamparada en comunidades locales a través de los Estados Unidos. Queda agregar que este reporte señala la inaceptable forma de la practica inconstitucional.

V. El Problema

Los pasajes de la ley que apuntan al comportamiento asociado con la carencia de vivienda como son dormir, ir al baño , sentarse, cocinar, acostarse, orinar, o guardar

propiedades personales en espacios públicos son inconstitucionales porque colectivamente apuntan a personas por su estatus de vivienda y no por sus actividades criminales. Estas leyes y sus practicas están diseñadas para incriminar a los desamparados sin mencionar la palabra desamparo o vivienda porque señalan actividades que generalmente son realizadas por gente desamparada . El siguiente reporte demostrara que la gente desamparada ha sido señalas de una manera discriminada por conducir actividades en espacios públicos que en otros casos se consideran privadas debido a que carecen de privacidad, vivienda o por lo menos un refugio en el cual pudieran realizarlas.

VI. Resultados

A. El abuso sistemático de los derechos civiles en contra de la gente desamparada ha utilizado como estrategia el remover a la gente desamparadas de la vista por el gobierno federal y los negocios privados en los distritos.

- Los esfuerzos han llevado al incremento de incidentes en que la policía ha removido gente desamparada de áreas que son frecuentemente visitadas por los turistas;
- El mejoramiento de los negocios ha contratados guardias de seguridad para restringir el acceso a áreas de la comunidad basándose en las ganancias económicas;

- Leyes existentes están siendo selectivamente puestas en práctica como una medida obligatoria y nuevas leyes están siendo creadas con el objeto de remover a la gente desamparada de esas áreas.
- Acceso a espacios públicos la gente desamparada está siendo restringida de parques públicos los cuales se han designado como "parques familiares" desalojando a individuos sin hijos. La comunidad invierte el dinero público para construir barras en el centro de las bancas de los parques para prohibirle a la gente acostarse en ellas y la gente ha sido cambiada de colonias en conjunto a otras ciudades, desde Athens (GA) hacia Cincinnati hacia Portland (OR);
- Limpiezas antes de un juego o de un evento político se han citado en docenas de comunidades entrevistadas
- La gente desamparada reporta incidentes de brutalidad policial en comunidad de Jacksonville (FL), a Sioux Falls, (SD);
- Cantidad de multa desde \$50 a \$2,000 han sido impuestas a la más pobre de nuestras comunidades solo por carecer de vivienda y sin tener la habilidad de pagar, resultando en tiempo de encarcelamiento.
- La policía se ocupa de despertar a la gente cuando está durmiendo en la calle sin tener un lugar para ir a caminar de un lugar a otro de Valdosta (GA), a New York City.

B. 100% de las comunidades encuestadas no tienen suficientes camas para satisfacer sus demandas y el costo de la vivienda esta fuera de el alcance de muchos incluyendo la clase trabajadora.

- El numero de gente desamparada se ha incrementado debido a la escasez de vivienda y unidades disponibles para la gente de bajos recurso tanto en el mercado privado como en el sector publico.
- Mas del 23% de la gente en busca de un refugio permanece sin posibilidad de entrada de acuerdo al la conferencia de representante en 2000. La demanda por refugio y vivienda tradicional en los programas excede las disponibles en un 100 de las comunidades entrevistadas.
- La salud mental y drogas ha restringido el acceso a refugio y programas para la población en general debido a sus espacios están pendientes.
- No hay jurisdicción el país donde el salario mínimo pueda compararse con mercado de rentas de vivienda de HUD's.
- Declinando la disponibilidad de soporte monetario como TANF y SSI contribuye al incremento del desamparo;

- Las familias en transición de welfare a un trabajo regular continúan sin tener el suficiente dinero para adquirir vivienda en sus comunidades.

C. El no tener acceso al cuidado de salud, incluyendo, a la salud mental, y el tratamiento para abuso de sustancias están en desproporción con impactos por la incriminación en muchas comunidades

- El costo por arrestos, procesos de encarcelamiento a las personas desamparadas es aun mas alto que la creación de vivienda.
- Aunque algunas comunidades se han comprometido en proporcionar recursos para llevar acabo arrestos por estatuas de vivienda. En Atlanta solo 18,000 a 19,000 gentes recibieron citatorio por su calidad de vida anualmente, en San Francisco las citas fueron de 43,000 en un año.
- La gente experimentando desamparo en Baltimore gasta un promedio de 35 días por ano en la cárcel;
- La incriminación de los desamparados lleva al incremento de barreras para acceder refugios y casas debido a el récord criminal.

- La gente desamparada será juzgada como no disputo en lugar de no culpable para salir con tiempo de servicio debido a la falta de representación legal y de conocimiento de sus derechos,

D. Estos modelos se reproducen en comunidades a lo largo de la nación como resultado de la conexión entre la gente que se encuentra desamparada , sus aliadas y el gobierno local.

- El departamento de policía se ha reunido con trabajadores de alcance y proveedores de servicios para crear modelos inovativos en comunidades de sacramento
- Victorias legales en comunidades desde Portland (OR), a Agustín de Cleveland hacia Miami tienen importante precedentes el cual puede informar a la abogacía local
- Clase acción demandas traídas por los desamparados estima siendo mas flexibles que las decisiones juridicciales como en Atlanta, Richardson v Atlanta.
- La litigación combinada con la organización es mar efectiva que la confianza en el sistema de las cortes
- Los medios de organizar has cambiado efectivamente siendo en contra del desamparo en reglamentos de la ciudad de Baltimore a Portland (OR) ha san Francisco

Recomendaciones

I. Educar a la gente desamparada, a sus allegados, acerca de sus derechos constitucionales

- La gente desamparada debe ser educada acerca de sus derechos civiles y tener acceso a la representación legal cuando ellas están siendo violadas en un aspecto individual o colectivo.
- La gente desamparada debe estar envuelta en el reglamento publico y las decisiones a nivel local;
- Los esfuerzos para asegurar que los derechos civiles de la gente desamparada serán respetados deben estar ligados a una agencia local de derechos civiles.

II. Apoyo inmediato para monitoriar proyectos y colección de información actividad que desafían los abusos, soporte local mejores practicas y edificación de una red nacional informática.

- La policía deberá documentar el estatus de vivienda de cada persona a quien arreste o a quien vaya dirigido el citatorio.

- Un sistema de archivo central Independiente al de la policía local debe ser establecido para archivar los incidentes de abuso y acoso.
- Revisión por la mesa directiva de ciudadanos deberá ser establecida e incluir representación de gente desamparada, y que han sido incriminadas con la revisión de todos los arresto y citas de gente desamparada.
- La información local debe dirigirse al estado y las entidades nacionales enteramente encargadas de monitorea las practicas de la policía en con la gente experimentando desamparo;
- Entrenamiento que debe ser requerido a todos policías, en cuanto a desamparo y derechos civiles así con relevancia a gente experimentando desamparo.
- La policía debe contactar trabajadores de alcance para asistir con intervenciones con gente que experimenta desamparo.
- Mejores practicas debe ser documentado y distribuido a el departamento de policía, gobierno local dirigentes y organizadores.

III. Acción federal es requerida para investigar formas y practicas de la violación a los derechos civiles en contra de la gente desamparada.

- Fondo federal adecuado para crear vivienda disponible para la gente de bajos recurso señalara las primeras causas del desamparo en relación con la eliminación de practicas inconstitucionales de las leyes.
- Pasar una resolución para proteger a la clase basada en su socio-conómico-status;
- El registro para votar no debe ser basado en el estatus de vivienda
- Debe pasarse una legislación que castigue los crímenes de odio a nivel Federal y ampliamente obligatorio.
- Asegurar los derechos de niños desamparados para lograr educación y otros servicios públicos.
- Litigación alrededor de un selectivo reglamento y regulaciones de exclusión de practicas de vivienda debe ser agresivamente perseguido.
- Fondos federales para las comunidad que incriminan a los desamparados deben ser suspendidos,

IV. Litigación combinada con la organización y los esfuerzos de educación publica

- Toda la gente experimentado desamparo quienes están arrestados deben tener información de su derecho a consejo y a tener el teléfono de una organización de abogacía para archivar y documentar el arresto independientemente.
- Desarrollar, documentar, diseminar y replicar modelos de organización;

V. Educación Publica

- Actividades de educación publica acerca del costo de encarcelación comparado con vivienda es critico.
- La educación publica y los recursos disponibles en las comunidades son la base de la movilización publica el apoyo la inversión de medios adecuados y soluciones a largo plazo, incluyendo cambios de el salario universal de vida que incluye el costo de vivienda.
- Y acceso universal al cuidado de salud y el desarrollo de vivienda que sea razonable y accesible para cada persona en este país.

“Prisons . . . are only a problem for those locked inside them, their loved ones, and those who want a free society.” Joel Olson¹

I. INTRODUCTION

A. A Working Definition of Criminalization:

Homelessness or economic status is increasingly likely to be a cause of

“The United States incarcerates a larger proportion of its population than any other nation. One of every 150 Americans is behind bars, and that population has doubled in the past twelve years.”

Katheryn Casa, “Prisons: the new growth industry,” *National Catholic Reporter*, 7/2/1999, p. 1.

incarceration, as local jurisdictions adopt ordinances that criminalize common activities such as sleeping, sitting on a sidewalk, standing, or begging in public spaces. People without homes frequently face arrest for public “nuisance” crimes such as public urination, indecency and

intoxication.

Criminalization is defined in this paper as the practice of legislating against those basic life-sustaining activities such as bathing, sleeping, sitting, cooking, lying down, urinating, or storing personal belongings in places where people are forced to exist without their own housing. Criminalization is also characterized as selective enforcement of other laws, such as ordinances against loitering or “public drunkenness.” Selective enforcement of local ordinances or public statutes comprises targeting certain classes or

¹ Olson, Joel, “Gardens of the Law: The Role of Prisons in Capitalist Society,” [Crisis](http://www.prisonactivist.org), www.prisonactivist.org.

groups of people for arrest if they fail to comply with those laws, while ignoring others who commit the same infractions.

In many of the cities that we cite in this report, police ignore tourists or conventioners who drink alcohol in public but use the same ordinances to target homeless people and people who look poor or homeless. The principles of justice and equal protection under the law are the basis for constitutional democracy. However, homeless people are frequently denied that protection at the same time that they are also made victims of ordinances that target their daily, life-sustaining behavior. Even if many of these laws were not designed primarily to entrap homeless people, they are, nevertheless, used against homeless individuals and families in obviously discriminatory patterns and practices. The bulk of this paper cites cases and experiences of individuals who have been subjected to discriminatory enforcement as well as targeted by legislation that prohibits necessary functions being carried out in public, when there is no private venue in which to perform these functions.

In spite of some successful litigation, the violation of basic constitutional rights of people who are homeless, such as free speech rights relative to panhandling or selling of street newspapers and property rights, relative to due process protections for homeless people to own or store property, routinely constitutes criminalization in our urban areas. In many of the cities surveyed, homeless people are routinely stopped and required to produce identification so that outstanding warrant checks can be run on police computers. Police “sweeps” of cities before major political, sporting or entertainment events and random harassment of homeless people are common from New York City to Phoenix to Seattle.

The criminalization of homeless people for performing life-sustaining activities in public spaces, or simply for being judged unsightly in areas that are frequented by tourists or in gentrified neighborhoods, is a form of economic class and racial discrimination against people who are among the poorest and most vulnerable in our communities. Removing homeless people from public spaces in the name of improving the “quality of life” of our cities begs the question – whose “quality of life” are we improving and at what social and economic costs?

We can all agree that no one wants to deny a person’s need to sleep, to bathe, or



A historical photo from the 1980s of the late Mitch Snyder, founder of the Community for Creative Nonviolence, being arrested for protesting the lack of shelter. *photo by Jim Hubbard*

to urinate. That kind of denial of basic human needs fulfillment just “happens” in an unconscious way, as a result of each business, neighborhood, and private landlord saying, “Not here – anywhere but here.”

Poor and homeless people have been stigmatized in our culture because their needs for goods and services are apparent. They cannot purchase health care, housing and services, so they live out their needs in public. The disheveled, disoriented man sitting on the street corner is marketed as dangerous and threatening to the “quality of life” for housed people in cities throughout this country. Criminalizing that man’s behavior is an expedient means of removing him from sight, from our concern and from offending the sensibilities of other citizens. Worse, still, criminalization is frequently justified as a means for forcing him into services that were unavailable to him voluntarily.

B. The Housing and Income Gap:

We are in the midst of a housing crisis. Economic growth and prosperity for some has done nothing to help the growing population of men, women and children who do not have housing. The loss of affordable housing in the United States, and the subsequent rise in homelessness, is directly linked to the decline in federal support for low-income housing. Between 1980 and 1988, federal budget authority for low-income housing was cut by over 50%, from \$64.9 billion to \$31.6 billion.² Loss of affordable housing continued into the 1990s, despite a rapidly growing economy. The affordable

² Cushing Dolbeare, *Out of Reach: The Gap Between Housing Costs and Income of Poor People in the United States*, The Low Income Housing Coalition, 1999, p. 2; see also 2001 *Out of Reach*.

housing gap—the number of affordable housing units needed but unavailable—grew by one million between 1991 and 1995.³

The National Low Income Housing Coalition tells us that in 1995 the gap between what poor renters could afford and what they were paying was \$28 billion. We could say, then, that poor renters used funds they could not afford to replace public subsidies to which they had no access.

By 1998, the number of low-income renters in America outstripped the number of low-cost rental units by 5.4 million rental units, representing the largest shortfall on record.⁴ The national waiting list average for public housing is now approximately three years, with over one million families currently on these waiting lists.⁵ Many landlords with low-vacancy rates are refusing to rent to HUD-subsidized Section 8 tenants

Over one million families are on waiting lists for HUD-assisted housing, with the average wait nearly three years. The time these families spent on waiting lists rose by over 50% between 1986-1998, from an average of 22 to 33 months. In some large cities the waiting time is even longer, such as eight years in New York City, six years in Oakland and five years in Washington, D.C., and Cleveland. During this same time, the waiting period for Section 8 vouchers, used to assist families in renting privately-owned units, rose from 26 to 28 months, and in large cities the wait can be up to ten years. People fortunate enough to get vouchers are often faced with resistance from landlords choosing, instead, to “opt out” of their HUD contracts and speculate in the fluctuating

³ Jennifer Daskal, *In Search of Shelter: The Growing Shortage of Affordable Rental Housing*, 1998; The Center on Budget and Policy Priorities.

⁴ Ibid.

⁵ “Waiting In Vain: An Update on America’s Housing Crisis,” Department of Housing and Urban Development Report No. 99-48 (March 8, 1999).

market. In 1998 alone, almost 13,000 housing units were lost through landlord opt outs.⁶ Additionally, many private landlords are refusing to rent to HUD-subsidized Section 8 tenants.

Federal cuts to Supplemental Security Income (SSI benefits people who are permanently disabled and unable to work) lessens many people's chances of finding and maintaining housing. On March 29, 1996, Congress and the President struck a deal whereby the lifelines for 200,000 disabled U.S. residents were snipped, and they lost their disability checks. While some were able successfully to re-apply, 60% nationally were unable to navigate the complicated re-application process, and, as a result, lost their only source of income. In some cases they also lost their state health benefits, including primary health care, mental health treatment, and some forms of substance abuse treatment.

Private housing, though the norm for poor families, exposes them to rapid legal eviction processes in jurisdictions where landlord-tenant law favors the landlord. Of those families receiving Temporary Assistance to Needy Families (TANF) benefits, only 20% receive any kind of housing subsidy. Being late with a rent payment can cause eviction in a week in some states. In 1997, 84% of "welfare" families in private, unsubsidized housing received less in benefits than they paid for housing and food.⁷ This affordability gap is a predictor of homelessness, with greater risk attached to paying higher percentages of income for housing.

⁶ Ibid.

⁷ Nancy O. Andrews, "Housing Affordability and Income Mobility for the Poor: A Review of Trends and Strategies," Meeting America's Housing Needs, April 1998, p. 2. citing Kathryn Edin and Laura Lein, Making Ends Meet, 1997, p. 370.

Soaring housing costs, the gentrification of inner city neighborhoods, and construction of sports arenas, convention centers and other tourist attractions create the pressures for “revitalization” of communities throughout our urban areas. “Revitalization” and “redevelopment” become code words for the gentrification policies that sacrifice low-cost housing to market housing, that appeals to single-family purchasers. These policies are sanctioned by the U.S. Department of Housing and Urban Development (HUD) through the funding of HOPE VI projects as well as the “revitalization” of public housing through policy priorities that are exclusive rather than inclusive. HUD provides grants to public housing authorities to replace distressed public housing with new or rehabilitated units. Our concern is that one-to-one replacement is not practiced consistently. Approximately four new units are built for every ten torn down. The last decade of the 20th century saw the gentrification of public housing to the extent that we can no longer claim to have a housing safety net for those poorest among us.

In suburban communities, frequent zoning restrictions prevent the location of affordable housing even where land prices are not prohibitive. In rapidly-developing “doughnut” communities surrounding urban centers, there is often deliberate exclusion of housing and services that are perceived as creating “magnets” for low income, poor and homeless people.

Rural housing options are frequently as scarce, and the lack of transportation to employment resources and support services frequently requires the relocation of individuals and households at risk of homelessness.

There are implications of conscious discrimination in the strategies embraced by developers and city planners who “improve” inner city neighborhoods by replacing deteriorating housing stock with middle and upper income housing and services. Development and neighborhood improvement proponents almost always deny the resulting displacement of poor families and individuals. Developers and planners replace rental housing that is frequently and intentionally poorly maintained and unprotected, with single-family housing that encourages another level of residency – one that they describe as “family-oriented,” “stable,” likelier to be credit-worthy and “crime free.”⁸

The shift over the past two decades of housing support to higher income households, including the loss of federal preferences and relaxation of targeting requirements for subsidies, has excluded minimum wage earners and recipients of fixed incomes from housing. HUD’s change in focus from the creation of new units of housing affordable to very poor people to issuing vouchers that homeless families and individuals often return at deadline unused because they could not find a private landlord who would accept them. Combine these policies and practices with the loss of real income for the bottom 20% of the population and the escalating costs of housing and you have increasing homelessness.

C. *The Income/Employment Crisis:*

The National Low Income Housing Coalition along with many other national groups have documented that there is no state or local jurisdiction in this country where

⁸ In Dunwoody, GA, Post Properties mounted a billboard campaign using pictures of squirrels and chipmunks over the copy, “The only low life you’ll see”

minimum wage income can afford what HUD considers a “Fair Market Rate” rent for housing.

While housing costs are exploding, incomes have not kept pace, and the resulting gap between the cost of housing and available income has widened to the point of requiring more than two minimum wage incomes per household to afford housing at “fair market rents.” For example, a worker in Atlanta would have to make \$12.40 an hour or work at least 2 1/2 minimum wage jobs to afford an efficiency apartment at HUD’s Fair Market Rent.

The connection between impoverished workers and homelessness can be seen in homeless shelters, many of which house significant numbers of full-time wage earners. A sweeping national study found that almost half of the homeless people surveyed had worked at least part time in the previous month.⁹ A survey of 27 U.S. cities found 20% of homeless persons are currently employed.¹⁰ Instead of enacting and promoting hiring practices that provide living wages and thus a way out of homelessness, the federal government responds with regressive policy decisions, such as keeping the minimum wage significantly below the poverty level. The continuing decline in real value of minimum wage income, as well as the declining availability of income supports like TANF and SSI (benefits to families and people with disabilities), without the subsequent availability of public housing units, creates and exacerbates homelessness.

The economic status of homeless people alone sentences them to frequent discrimination and, in extreme cases, to the loss of their civil and human rights. A major factor exacerbating homelessness is the federal minimum wage of \$5.15/hour, which is

⁹ Bernstein, Nina, “Deep Poverty and Illness Found Among Homeless,” N.Y. TIMES, A13 (Dec. 8, 1999).

¹⁰ U.S. Conference of Mayors, 2001.

frequently the maximum wage paid homeless people who work labor pools and entry-level jobs in various service industries. An astonishing 45% of homeless people, nationwide, earn some kind of income. However, that income is not sufficient for accessing safe, affordable and appropriate housing.

Families losing welfare benefits as a result of the Family Responsibility and Work Opportunity Act passed in 1996 are finding that even when they transition to employment, the cost of housing is prohibitive, and they remain homeless (see NCH's website for the Universal Living Wage Chart—<http://www.nationalhomeless.org>).

Not only are homeless people excluded from housing, employment opportunities and health care, they are also without access to information and the means of participating in the development of solutions to their plight.

D. The Health Care Crisis:

Homelessness is, by definition, a health hazard, in part because it impedes access to health care services. People receiving treatment or medication on the outside often do not continue to receive it once incarcerated. This lack of treatment is particularly harmful, even life-threatening, to those people with chronic illnesses such as HIV, diabetes and hypertension, all of which have heightened prevalence in the homeless population. Anti-psychotic medications are also likely to be discontinued or unavailable during incarceration. Those people with addictions may be faced with the dangers of involuntary and unsupervised detoxification.

In addition to the disruption of health care, incarceration poses other serious health problems -- increased risk of tuberculosis, hepatitis, and sexually-transmitted

diseases. Homeless people who are incarcerated are sometimes victims of violence, as well as sexual and physical abuse.

Given the reduced availability of appropriate long-term mental health care facilities, many people with mental illness are incarcerated in prisons and jails where they are unlikely to receive mental health treatment. Nationally, 16% of inmates in state prisons and local jails, nearly 300,000 people, have a mental illness. That number is four times the number of Americans in state mental hospitals.¹¹

Certain jurisdictions have a national reputation for jailing the mentally ill. For example, the Los Angeles County Jail is said to be the largest mental health care facility in the United States.¹² This nation's response to addiction and mental illness has fallen far short of needed treatment. The lack of adequate response coupled with local governments' tendency toward expediency has pushed law enforcement into the lead role in addressing the need for treatment among homeless people. This approach has been both a practical and moral failure.

For those homeless people suffering from addictions, treatment and recovery "on demand" is not an option. Treatment is not available for more than half of those people who seek it and would benefit from it, but yet we are willing to continue jailing users at a cost that jumped from \$7 billion, nationally, in 1980 to \$38 billion in 1996.¹³ "One dollar spent on the treatment of an addict reduces the probability of continued addiction seven times more than one dollar spent on incarceration."¹⁴

¹¹ National Alliance for the Mentally Ill, 1999.

¹² National Health Care for the Homeless Council Policy Statement. "Incarceration, Homelessness & Health" June 2001. www.nhchc.org/policypapers/policypapers2001

¹³ Ibid., page 2.

E. The Lack of Emergency Housing and Services:

According to the 2001 U.S. Conference of Mayors' Report, more than 37% of those people seeking shelter are unable to access it. Many shelters charge a per night fee that is comparable to monthly rent. Daily charges from \$5.00 to \$10.00 are common in facilities throughout the country. People who are homeless have the legal right to free shelter in only one city in the United States -- New York City. The reality of the right to shelter in New York, however, requires that homeless people work in exchange for shelter, if they are able.

According to the Urban Institute's *America's Homeless II: Populations and Services*, by 1996 emergency beds had been replaced by transitional beds. That shift in service delivery from immediate access beds to transitional leaves many homeless people with no access to the system of services we describe in Continuum of Care plans. In most cities

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throughout the country, shelters and transitional housing facilities select their residents from among the thousands of people seeking beds daily. Some may admit only families, or single women with children under certain ages. Still others exclude families with older male children or those with more than two children.

Shelters and transitional facilities are often gender-specific or available only for those people who are employed, have photo identification, or who can pass a criminal

¹⁴ Ibid., page 3.

records background check. The vicious cycle of criminalization also prevents homeless people from passing scrutiny for admission into shelters, transitional and permanent housing because they have arrest records. Homeless men who are detained for “status” offenses often lose their jobs and their shelter.

The overwhelming majority of communities from Boston to Birmingham to San Francisco lack sufficient emergency shelter beds on any given night for people who are homeless and seeking shelter. Needs so far exceed resources that specialized facilities operate at capacity, while thousands remain unsheltered.

II. METHODOLOGY:

The Civil Rights Work Group (CRWG) of the National Coalition for the Homeless (NCH) is comprised of individuals from groups throughout the country. The group surveyed fifty-seven (57) cities in twenty-nine (29) states, Puerto Rico and the District of Columbia to determine the relationship between homelessness and incarceration patterns and practices of local jurisdictions. This report continues the work begun nearly two decades ago by the National Coalition for the Homeless and the National Law Center on Homelessness & Poverty (NLCHP), two groups who collaborated on the development of the survey instrument, the data collection, the anecdotal narratives, and the production of this report. The survey instrument (Appendix 5) is an ongoing outreach and intake tool used by many of the local coalitions and groups involved in the monitoring of civil rights issues impacting homeless people. These groups, which include homeless people, advocates and service providers, participate in the National Homeless Civil Rights Organizing Project of the National Coalition for the Homeless, an ongoing effort to establish systematic data collection and coordination of efforts to protect the rights of homeless people.

Coordinating information about the legal actions taken by groups across the country, the NLCHP partners with NCH to sustain this organizing effort to fight the criminalization of poor and homeless people. This paper is the latest in a series of reports describing the treatment of homeless people on the streets and in the institutions of our cities.

The cities were chosen to represent geographic regions, urban and suburban areas as well as rural communities. The overwhelming weight of experience and

documentation demonstrates the patterns and practice of jurisdictions across the country that systematically ignore the need to protect the required behavior of homeless people. Instead they abuse and criminalize the same people who are excluded from housing and services.

Information about experiences and practices in cities surveyed was gathered from local and statewide coalitions, service providers, and from the words of homeless people. Anecdotes and descriptive narratives are attributed, and sources are quoted where possible. Many of the advocates cited in this report regularly monitor the arrests of homeless people. Systematic recording of these arrests provides a central repository of data, evidence and experiences that present patterns and practices of economic, civil and political discrimination against a group of citizens identified as “homeless.” These records also enable groups from cities, counties and states to contribute their data to the National Coalition for the Homeless and to the National Law Center on Homelessness & Poverty in the creation of a National Homeless Civil Rights Organizing Project.

The national network of organizations and individuals maintained by the National Coalition for the Homeless and the National Law Center on Homelessness & Poverty was used as the basis for contacting local groups and individuals.

Where the data exists and is shared, arrest records were summarized. Copies of ordinances and statutes have been collected and are being organized into a national database. Case law was researched and presented by the NLCHP. Appendix I presents the experiences of cities and towns, while Appendix II summarizes relevant case law.

The information and experiences, as well as available statistics, were collected, evaluated and form the basis for policy analysis and recommendations for strategies to

combat the erosion of civil and human rights in this country. Erosion of freedom often begins with the most vulnerable in a society. Except for questions, challenges, exposure, and resistance, that practice eats at the heart of a people.

*“No other society in human history has ever imprisoned so many of its own citizens for the purpose of crime control.” Marc Mauer, **The Race to Incarcerate**.¹⁵*

III. CRIMINALIZATION AS PUBLIC/ SOCIAL POLICY:

A major trend of developing local ordinances specifically targeting homeless people began as early as the mid-1980's. Anti-drinking laws, laws against sleeping in public, panhandling, loitering and trespassing are just some of the so-called “quality of life” laws which do not discriminate on their face, yet are invariably enforced in a discriminatory manner. For instance, anti-camping ordinances are often strictly enforced against homeless people and overlooked in relation to housed people. Homeless people sleeping on a blanket or a piece of cardboard are arrested, while well-dressed people napping on a blanket nearby are ignored by law enforcement officers. Clearly, people who appear homeless are being criminalized under these neutral-sounding “quality of life” laws based on their economic status or class. This trend escalates while services are being cut concurrently, rendering it yet more difficult to exit homelessness.

The division and removal of poor people from the rest of society has permeated the fabric of our nation and adversely affected poor people's general integration into any neighborhood or community. This sentiment leads to ordinances that are used to create a legal justification for prosecuting poor people, and are used by more affluent neighborhoods and businesses as a way of creating “safe” and “clean” communities.

¹⁵ Cited by Eric Schlosser, “The Prison-Industrial Complex,” *The Atlantic Monthly*, December, 1998, Vol.282, No. 6., page 56.

The ripple effect of criminalizing homelessness has resulted in such divisive programs as welfare reform, mixed-income requirements for housing which was previously dedicated to poor people, separate schools for homeless children, and other programs and requirements aimed at poor people rather than all people. There has evolved a whole industry dedicated to not ending poverty, but to institutionalizing it. This “poverty industry” oppresses homeless people while at the same time making a career out of their economic plight and the funding available from both government and the private sector. Service providers, while declaring themselves the model upon which to base poverty reform, are sometimes complicit in this oppression. The average individual in this country is unaware of the causes of homelessness, the conditions in which homeless people are forced to live, as well as solutions to this most desperate form of poverty. Those media portrayals of homelessness as an issue of public safety reinforce the fear and hopelessness many people report feeling as they consider what seems an overwhelming and growing problem.

New “community,” “mental health,” and “drug” courts are sanctioned as providers of alternatives to “hard time.” In cities across the country, where there are critical shortages of all housing and services, existing beds and support services are diverted into the court system, set aside for “sentencing,” and therefore not available on demand as voluntary solutions for preventing incarceration.

“Alternative sentencing” through special courts has become the newest marketing tool for public safety advocates who cloak their “urban cleansing” policies in social service language. Such policy is sometimes based on the intentionally misleading assumption that people who live on the streets are “treatment resistant,” a term used to

dehumanize people who are homeless in order to lay the groundwork for passing laws against their very existence. Ignored are the available facts that needs far outstrip housing and services, and that for every one homeless person who gets shelter or housing and services when requesting them, there are at least three who do not because there are insufficient housing units, shelter and transitional beds, treatment facilities and living wage jobs.

A. The Expediency Factor: Out of Sight, Out of Mind

Many communities doubled or tripled their shelter capacity in the 1980's and early 1990's to respond to increasing homelessness: In Boston, shelter capacity increased by 246% between 1983 and 1995, expanding from 972 to 3,362 beds; in Los Angeles, shelter capacity more than tripled between 1986 and 1996, increasing from 3,495 to 10,800 beds; and in the State of Minnesota, the number of persons in homeless shelters available on one night more than quadrupled between 1985 and 1997.¹⁶ Still, the resources failed to meet the growing demand for emergency beds and services.

Cities have generally failed to address the root causes of poverty and

"Anymore, you don't have to be doing something to be stopped by police; you just have to BE."

--Jerry, 50, a homeless man

homelessness. For example, homeless people frequently receive life-skills training instead of jobs that pay livable wages; case management instead of treatment; and shelters or transitional housing instead of permanent housing. Homeless people

¹⁶ National Coalition for the Homeless, *Homelessness In America: Unabated and Increasing*, 1997, p. 12.

unable to access these limited services or who fall outside the current system are targeted as “service resistant” and become victims of more expedient solutions to their presence.

Due to the lack of adequate housing and services and the subsequent growth in homelessness, many city governments have resorted to the “out-of-sight, out-of-mind” approach that involves sweeping homeless people and their property from public areas. Local merchants organize Business Improvement Districts (BIDs), some of which have historically ignored homeless people’s civil rights. Conservative business consultant groups advocate across the nation for “anti-homeless” legislation. Once individuals become homeless they become targets of countless acts of injustice and violations of their civil and human rights.

Issues of homelessness are often politically charged, and thus, hastily addressed. Local politicians serve relatively short terms and may be influenced by business interests that want a quick answer to someone sleeping or panhandling in front of a business. Policies devised with no outreach to or input from homeless people or front-line staff of homeless service agencies are often short-sighted.

Cities rely on the standard quick-fix of using law enforcement officers to conduct “sweeps” of homeless people and their property. Calling the police is becoming the standard response to homelessness. Homeless people are thus under constant threat of arrest, even by means of responses from well-meaning citizens who know of no other alternatives.

To support the “call in the cops” approach, cities create legislation that criminalizes homelessness. Examples of such legislation include anti-panhandling ordinances, camping

prohibitions, laws against sleeping in a vehicle, targeted trespassing laws, and rules against blocking the sidewalk. These rules give power to law enforcement to increase the criminal justice system pressure on homeless people and give the rest of the community the excuse to view homeless people's very existence as outside the bounds of organized society.

Passage of "Not in My Back Yard" (NIMBY) zoning laws and the creation of public anti-person architecture push homeless people farther away from public spaces. Forcing shelters, substance abuse and mental health treatment centers away from populated or downtown areas and putting in place barriers to public architecture, such as short benches that prevent lying down, corrals homeless people into certain areas of town. The result is a spatial/economic apartheid that separates the deserving "us" from the undeserving "them." As a result of this process, public space is slowly eliminated for all.¹⁷

Merchants tend to hold sway in matters of local government and in dealings with local political figures. Local officials often pull merchants into discussions initiated to solve problems associated with homelessness, yet even business leaders anxious to solve the problem often grow weary when there is no easy solution in sight. Discussions aimed at addressing the root causes of homelessness end, and "call the police" strategies begin.

Jail and prison have thus frequently become the response of choice to the social problems that haunt people relegated to living in extreme poverty. "Homelessness, unemployment, drug addiction, mental illness and illiteracy are only a few of the

¹⁷ Davis, Mike, *City of Quartz*, (1990)

problems that disappear from public view when the human beings contending with them are relegated to cages.”¹⁸

Partly in response to problems associated with homelessness, businesses have organized to create Business Improvement Districts (BIDs). The typical BID involves a quasi-law enforcement force whose job includes, in large part, removing people who appear to be homeless from the BID areas. This force is largely unaccountable to the public and lack meaningful oversight. This approach has been heavily promoted and endorsed by HUD funding of BIDs. Some BIDs and other private security firms have a history of discriminating against, harassing and physically abusing homeless and poor people in an effort to “clean up” business districts. The federal government’s role here seems to have been primarily that of funder and promoter. This notion of a behind-the-scenes role by the federal government may stem from the fact that it would have a much harder time passing and implementing blatantly discriminatory laws and policies.

Homelessness is not a criminal justice or public safety issue, but is often presented as such by business improvement proponents to further narrow economic development purposes – to clean up our cities for development. If homelessness is perceived as a threat to public safety, then criminalization and incarceration may seem appropriate, not just expedient.

¹⁸ Angela Davis, “Masked Racism: Reflections on the Prison Industrial Complex,” p. 5.

B. Economic

Motivations:

When incarceration hides the people with the most urgent human needs, prisons become the alternative to housing and social services. The swelling of the prison population to more than two million people – five million when you include those on probation and parole – requires a concomitant growth in

“At least 20% of these people don’t need anything except treatment for mental illness or addiction or both – they don’t need to be in jail – they didn’t commit crimes. But as long as we are used for housing and social problems, we’re gonna continue to be overcrowded and unable to handle anything.”

-- anonymous professional
at a prison in Georgia.

that system. Prisons, jails, and the goods and services they require have become a growth industry. Private corporations now contract with local, state and federal governments to operate “corrections” institutions throughout this country. The national punishment system is now referred to as the “prison industrial” complex, producing profitable spin-off businesses complete with trade advertising. And because of their profit capacity, prisons and their attendant businesses have become important to the U.S. economy.

If we find that profit from punishment is objectionable, how much more objectionable is the creation of blatantly discriminatory legislative bases for requiring that punishment. In other words, since incarceration is, as an industry, profitable, we must have people to incarcerate. If violent crime is decreasing and the increase in the jail populations is due to non-violent crime, we must look at the ways we require that

incarceration. We also must look at the means we employ for persuading the populace that mass “punishment” for fabricated crimes (disguised social problems) is acceptable.

The prison-building industry publishes its own trade journal, and the marketing of prison cell phones and telephones systems is as competitive as its prize is lucrative. Pay telephones in prisons charge the highest rates allowable and are often the only means of communication with family, attorneys and the outside world.

Marketing to prisons, producing goods and services that support them as well as marketing to incarcerated people is only a part of the capital generated by this industry. The use of prison labor has eclipsed legal prohibitions that were instituted as far back as the 1930’s. From cleaning urban streets to manufacturing computer parts to fabricating graduation caps and gowns, or making telephone reservations, prison labor provides work at a fraction of the cost in the marketplace.

Far from producing wealth, the prison industry soaks up funds that could be used for housing, employment and training, treatment and health care. Expansion of residential programs for combating HIV, creating communities and opportunities for people who are in poverty and homelessness is only a fraction of the cost of prisons to the community-at-large.

“For private business, prison labor is like a pot of gold. No strikes. No union organizing. No health benefits, unemployment insurance or workers’ compensation to pay. No language barriers, as in foreign countries. New leviathan prisons are being built on thousands of eerie acres of factories inside the walls.”

-- Inmate at Federal Correctional Institution at Dublin, California, quoted by Angela Davis, p. 4.

C. *Racism as a basis for criminalization:*

Despite the civil rights victories of the past, racial prejudice continues to permeate life in this country. In 1966 the Kerner Commission issued a report about the events leading up to the urban riots that erupted in 150 cities during the previous summer. A consistent complaint from more than 100 witnesses testifying was “the stopping of Negroes on foot or in care without obvious basis.”¹⁹ Racial profiling and the criminalization of poor and homeless African- Americans, who have already been excluded from housing, living wage employment and most social service support, is observed in cities throughout this country and documented in this report.

We might ask if nothing has changed since 1967 or if something happened during the 1980’s that gave the government a weapon and an excuse to single out African- Americans and Latinos. According to a 1999 ACLU report, “From the outset, the war on drugs has in fact been a war on people and their constitutional rights, with African- Americans, Latinos and other minorities bearing the brunt of the damage. It is a war that has, among other depredations, spawned racist profiles of supposed drug couriers.”²⁰ Social problems of poor people are increasingly grouped under the category of crime as we see local governments addressing homelessness as an issue of “public safety.” The “automatic attribution of criminal behavior to people of color” is entwined with this view of social “problems.”²¹

Human Rights Watch cites our government’s September, 2000, report to the United Nation’s Committee on the Elimination of Racial Discrimination that “despite

¹⁹ David A. Harris, “Driving While Black: Racial Profiling on our Nation’s Highways,” University of Toledo College of Law, *ACLU Special Report: Racial Profiling in American*, 1999, p. 2

²⁰ Ibid..

²¹ Angela Davis, p. 1.

decades of civil rights legislation and public and private efforts, the inequalities faced by minorities remained one of the country's most crucial and unresolved human rights challenges."²²

In spite of the data that African-Americans constitute only 13% of the country's drug users, they are 37% of those arrested on drug charges, 55% of those convicted, and 74% of all drug offenders sentenced to prison.²³ Of the two million people in prison more than 70% are persons of color. "It is rarely acknowledged that the fastest growing group of prisoners are black women and that Native American prisoners are the largest group per capita."²⁴

Although no person of color is safe from this abuse, those people who are homeless and obviously poor are without the protection of housing or privacy and are exposed on a moment-to-moment basis to the disregard of their human and civil rights.

The Fourth Amendment protects individuals from being stopped and detained without some "reasonable suspicion" that the individual has been or is engaged in some criminal activity. Without establishing "reasonable suspicion" for stopping an individual, the police actions are vulnerable to legal challenge. By the time an action can be initiated, however, the damage has frequently been done.

Fighting crime to ensure "public safety" is clearly a priority for local governments throughout this country. Unless we address the problem of the erosion that policy and practice often produces on our freedom to move about, we will find ourselves living under a "police state." Unless we create opportunities for public discourse contesting racism and corporate greed that underlies the connection of public safety to imprisoning

²² Human Rights Watch, *World Report 2001*, p. 2.

²³ Harris, p. 5.

people from whom we withhold housing and public services, we will define ourselves as a nation that has already chosen social control over social support. Racism is a deeply-rooted mechanism for excusing and feeding the prison-industry complex.

D. Political Rationale for Criminalization:

Well-funded, conservative think tanks regularly act at the behest of and in conjunction with the business community. Anti-homeless policies are published by groups such as the Community Justice Legal Foundation (CJLF) and the Center for the Community in Interest/American Alliance for Rights and Responsibilities (CCI/AARR). These groups draft policies to demonstrate to cities ways of controlling not only private space, but also public space using the rules of private ownership. The confusion of what constitutes private “common good” is used as a basis for legislating against the very

“It follows, strikingly, that a person who is not free to be in any place is not free to do anything.”

Dr. Jeremy Waldron
Columbia Univ.
Law School.

presence of homeless people.

For example, CJLF presents an argument that whatever is good for private development is good for all urban residents. To that end, CJLF has published a “Guide to Regulating Panhandling;” and they market a model ordinance to regulate solicitation by homeless people, and they regularly write *amicus curiae* briefs in support of anti-panhandling cases. CCI/AARR operate

²⁴ Angela Davis, p. 2.

together, promote their own model anti-panhandling ordinance, and participate regularly in debates against homeless advocates around the country where these issues are being raised. They also publish an anti-panhandling guide.

Legislating against the activities homeless people are required to perform in public places, and in extreme examples we cite in this paper, legislating against their very presence, creates a situation in which a person who has no private place to live has no place to be.

The very definition of public or common property is that people can use it without getting permission -- as in streets, sidewalks, parks, etc. Decorum for using public or common space is determined by the will of the public and/or their representatives. In many cases private property owners and their powerful agent groups, in the form of “business” or “downtown” improvement associations, are able to persuade elected officials to impose rules of private property on the regulation of common property. When this rule of private property excludes people who have no access to private property from the use of public or common property, there is no place from which a homeless person “may not at some time be excluded as a result of someone else’s say so.”²⁵

²⁵ Dr. Jeremy Waldron, “Homelessness and the Issue of Freedom, UCLA Law Review, 39 (1991), p.299.

IV. COSTS OF CRIMINALIZATION:

A. *Economic:*

The cost of arresting, processing and jailing homeless people is substantially higher than the cost of providing housing and supportive services. The costs associated with police enforcement, court procedures, and jail detention are significantly higher, in the long run, than the costs of securing permanent low-income housing, living wage incomes, affordable child care, education and health care on demand. Diverting money from services addressing the root causes of homelessness to the criminal justice system costs more because of the high cost of law enforcement and also because of the costs associated with legal challenges to such enforcement.

Harsh criminalization policies breed legal challenges. Anti-homeless ordinances violate HUD's Consolidated Plan certifications and can jeopardize jurisdictions' access to CDBG, HOME and McKinney/Vento federal funds. These policies also frequently violate federal and state constitutions and expose city governments and police departments to civil liability. Defending municipalities against challenges to local regulations is expensive, time-consuming and misdirects valuable resources. Large damages and attorneys' fees resulting from successful legal challenges to anti-homeless ordinances further deplete scarce local resources.

Polls indicate that a majority of Americans are sympathetic to the plight of homeless people and support increased government spending on services for homeless people.²⁶ This conclusion contradicts the mainstream media's purposefully-crafted

²⁶ See Parade Magazine National Poll, Parade Magazine, Jan. 9, 1994 (77% believe government not doing enough, 65% would give if there were a check-off box on tax return form); Toro, Paul, and Marique,

message that it is the decrease in public “sympathy” toward homeless people or

“How can you make money off of something like incarcerating people?”
-- A.N. “Buddy” Moser, Executive Director National Sheriff’s Association, from “Prison Labor is a Growth Industry,” *Insight*, May 24, 1999.

increasing “compassion fatigue” that accounts for the profusion of anti-homeless policies in recent years.

People who see homelessness as a “problem” in our cities, towns and communities frequently want an immediate solution. In communities where there are

hotlines and agencies providing information about services and emergency housing, the constant cry is for more – more shelter beds, more emergency services, more transitional and permanent housing, access to health care and living wage incomes. Many people are willing to volunteer to work in shelters and soup kitchens, and they consider giving funds or paying taxes to support services and housing as their duty as members of the community. When it comes, however, to agreeing that the housing or the services be located in their communities, the attitude frequently changes to “not in my back yard.” Still more difficult is the process of turning willing volunteers into policy advocates and lobbyists. As the old story goes, we are, most of us, willing to help pull drowning people out of the water, but we are often reluctant to go upstream to see who is allowing them to fall in, or worse yet, who is pushing them in.

Homelessness was not created by the lack of funding for shelters but by the gap between the cost of housing and incomes available to access housing.

B. Social Costs:

Criminalizing homelessness is used as one solution to conflicts arising over access to public space. This “quick-fix” solution fails, however, to keep homeless people out of those public spaces because they have no alternative place to sleep, to sit, or to be. Everyone must perform activities of daily living. Housed people perform these activities indoors for the most part, but homeless people are forced to perform them in public and are criminalized for it.

With dramatically insufficient resources for emergency shelter and services, punishing homeless people for “innocent” public behavior is not only inhumane, it pretends to regard an issue of social exclusion as one of public safety. Media outlets frequently encourage this view of homeless people as criminals or as “potential” criminals. Footage of police raiding a known drug hangout but describing it as a “homeless camp” fires public outrage at homelessness and sets the stage for further “preventive” detention.

Tourists and workers in many of the cities surveyed are warned not to give to “panhandlers,” not to make eye contact and to call the police if they feel threatened. Ironically, these policies and practices that are designed to bring development into our cities produce the opposite effect. And the ultimate result is that many people coming into our cities from suburbs and rural communities are conditioned to feel fear at the sight of a homeless person.

“Everything that is done has to be done somewhere.”

Dr. Jeremy Waldron,
Columbia University
School of Law

In the United States today, homeless people are blamed for their lack of housing, employment and health care.

C. Political Costs:

Addressing homelessness and related public health issues such as mental illness or substance abuse overburdens the criminal justice system. The criminal justice system does not, and cannot, provide adequate treatment or rehabilitation opportunities. Police officers, sheriff's officers and others with the duty to enforce the law are rarely adequately trained to address the unique problems associated with homelessness.²⁷ Incarcerating individuals who have not committed serious crimes and who suffer from mental illness and/or alcoholism or other substance abuse problems causes difficulties for jail officials. People with mental health and/or substance use issues often require extra care and supervision uniquely tailored to their circumstances, and may experience more problems interacting with other detainees. Jail staff are often inadequately trained to handle these situations.²⁸ Furthermore, many jails, particularly "mega-jails" in larger

²⁷ See, e.g., National Institute of Justice, U.S. Department of Justice, *Police Responses to Special Populations*, Oct. 1987, at 4.

²⁸ See, e.g., National Alliance for the Mentally Ill and Public Citizen's Health Research Group, *Criminalizing the Seriously Mentally Ill*, 1992 at 21. The fact that jails are not an appropriate or effective forum for resolving problems such as the lack of housing or mental health or substance use problems has long been recognized by criminal justice and mental health experts. For example, in 1979, the former National Coalition for Jail Reform, a coalition of national experts, including, among others, the American jail Association, national Sheriffs' Association, United States Conference of Mayors, American Public Health Association, and National Council on Crime and Delinquency, unanimously adopted two policies:

- (1) "[P]ublic inebriates should not be subject to criminal prosecution or jail confinement because of their consumption of alcoholic beverages," and
- (2) "[M]entally ill or retarded persons who have not been charged with serious crimes never should be subject to jail confinement."

The National Coalition for Jail Reform: A Unique Experiment, Washington, DC, 1985, at 9, 13; See also Prisons Replace Hospitals for the Nation's mentally ill, *The new York Times*, March 5, 1998.

cities, are already severely overcrowded.²⁹ These conditions inevitably lead to litigation implicating whatever political administration is in power at the time of the challenge.

Using prisons and jails as social housing exacts a price from the individuals who are incarcerated instead of housed and treated. It also exacts a price from the “criminal justice system” that is not capable of meeting the needs of its population, from the public in terms of tax expenditures and from the politicians who are ultimately blamed for the failure of this strategy to permanently control groups of people.

The business groups and political leaders who impose bans on necessary activities of homeless people know full well that restrictions and harassment will drive homeless people into another neighborhood, another town or another state. “Not in my backyard” becomes the strategy used not just by one business or one homeowner, but it also becomes the policy of entire cities, states and nations. If not here, where? Certainly we are not a society in which the intent is that a homeless person should never be allowed to sleep or to urinate – just not “here.”

As long as some other community or some other political body is required to deal with the “problem” of homelessness we may not have to face it squarely and responsibly. However, there is no hiding of a political legacy that leaves future generations with more

“All across the country new cell blocks rise. And every one of them, every brand-new prison, becomes another lasting monument, concrete and ringed with deadly razor wire, to the fear and greed and political cowardice that now pervade American society.”
-- Eric Schlosser, “The Prison-Industrial Complex,” *The Atlantic Monthly*, Dec. 1998.

²⁹ See U.S. Department of Justice, Bureau of Justice Statistics, *Prison and Jail Inmates at Midyear 1997*.

prisons than public housing and with more people incarcerated than enrolled in institutions of higher education. The trend toward criminalization and the booming and private prison industrial complex are “accomplishments” current political leadership, regardless of political party, will claim as a legacy.

D. Individual Costs:

Once homeless people are incarcerated, whatever the charge, they face further obstacles in securing housing and employment. Criminal records checks are routinely required for most jobs, rental applications and even for emergency services like shelter, transitional housing and income supports. For example, recent changes in Social Security regulations require that anyone who is incarcerated for at least 30 days on any charge (formerly the regulation required a felony sentence of at least two years) loses benefits during the incarceration. If an individual who receives benefits is found to be “fleeing prosecution,” that is, if she or he has an outstanding warrant or an unresolved arrest citation, s/he can be removed from the benefit rolls. In fact, so anxious is the Social Security Administration to find these people that there is an “incentive” to agencies who reveal the identities of clients or guests who may be violators of the regulation. \$400 per person is paid to agencies that identify violators.³⁰

People who are homeless routinely report losing their possessions, identification, medication and employment as a result of being arrested. When homeless people are arrested, they lose whatever tenuous hold they have on getting their lives “back together.” Incarceration and police harassment perpetuates homelessness by leading to missing

³⁰ Regulation passed 2000

appointments with health care providers, caseworkers, job interviews, children, partners, and family members, disrupting their lives in countless ways and reinforcing a sense of alienation and hopelessness.

Criminalization perpetuates homelessness by diverting taxpayers' dollars and other public resources away from necessary housing and services to paying for courts, jails and prisons. Police time, funding private security patrols in Business Improvement Districts, erecting bars in the middle of park benches so that people can't lie down, chaining shut public restrooms in parks, discharging mentally ill inmates without psychiatric medication and with only an appointment slip in their pockets, cleaning up homeless encampments by using Sanitation Department workers to clear out people's belongings, sweeps of areas before major sporting, political or entertainment events all cost money that would be better spent on addressing the housing, employment, health care and service needs of people who are homeless. Once people do their jail time, they are still homeless.

Criminalizing homeless people for performing life-sustaining acts in public is inhumane and inherently ineffective because homeless people have no alternative course of action. Homeless people must eat, sleep, rest, socialize and sit in public places. Because public benefits are often inadequate to purchase life necessities and pay for housing, homeless people are sometimes forced to panhandle. In virtually all of the cities analyzed by this report, the resources available to shelter homeless people and the services necessary for homeless people to achieve and maintain self-sufficiency are sorely lacking.

Criminalization policies are counterproductive because they create barriers for people on the path toward self reliance and undermine individual efforts to escape poverty. Often people miss employment, public benefits, medical and housing appointments due to incarceration or judicial proceedings related to so-called “quality of life” citations they receive for sleeping or sitting in public. Further, criminal justice policies do not address the reasons people become and remain homeless. In this way, these policies put and keep more people on the street and increase the homelessness-related problems that they are ostensibly put in place to address.

V. RESPONSES TO CRIMINALIZATION



Opposition to the criminalization of homelessness is evidenced by a range of local and nationally-coordinated efforts to affirm the fundamental reality that people living without housing must exist in public spaces. Penalizing their very existence is a violation of their civil and human rights. Efforts to oppose the patterns and practices of criminalization have demonstrated effectively the costs – human as well as financial – to homeless people, taxpayers, and business, and to the quality of all life in this society. Legal victories have changed public policies incrementally while costing resources that could be directed toward providing housing and services.

There have also been local challenges in cities across the country, in the form of organizing efforts. Each victory speaks for the civil rights of homeless people locally but is usually directed at the local or state governments. There are few instances in which

organizing efforts are directed against local business or downtown business associations (BIDs). The businesses and “improvement associations” are frequently the initiators of urban policy, legislated by governments but ultimately authored and funded by those associations seeking protections and subsidies (private security forces paid for by tax dollars).

Unfortunately, there is not yet national awareness or space on the national agenda for debate on the criminalization of homelessness. There is not yet a widespread belief that homeless people should have civil rights in public spaces. Even when lawsuits challenging anti-homeless ordinances are won, the only victory is that homeless people are allowed to exist on the street; these lawsuits do not create affordable housing or accessible services. Most of the legal and organizing campaigns have focused on city government or local police forces. There are few instances where local business groups or downtown associations, often the main perpetrators of anti-homeless policies, have been confronted.

Although the local responses to criminalization have not eradicated civil rights abuses, they have laid the groundwork for a national challenge. The following organizing achievements and legal gains made locally will help advocates and homeless people build a national movement.

Legal Victories

Most of the legal victories have challenged specific ordinances rather than enforcement practices. There have been many suits against ordinances that criminalize sleeping, camping or sitting in public. One encouraging example is an Oregon state

circuit court judge's recent ruling in *Oregon v. Wicks*. The judge declared Portland's anti-camping ordinance unconstitutional because it violated the Eighth Amendment provision against cruel and unusual punishment, as well as homeless people's right to travel. The *Wicks* opinion makes it clear that criminalization is not the answer: "[t]here are a great number of alternatives regarding housing, job training, mental health services, etc. that should be put into place to both minimize the effect of homelessness, and eliminate homelessness altogether, before our city resorts to arresting individuals for sleeping and eating in the only locations available to them."²¹

Homeless people and advocates also defeated ordinances outlawing sleeping in Austin, Texas, and Cleveland, Ohio, in 2000. The ACLU of Ohio reached a settlement in its case against the City of Cleveland, and the City agreed not to arrest, detain or threaten homeless people for "performing innocent, harmless, inoffensive acts, such as sleeping, eating, lying or sitting in or on public property."²²

Settlements such as the one in Cleveland are the most common form of resolution of lawsuits challenging anti-homeless ordinances. Although cases that end in out-of-court-settlement cannot be cited as precedent in future legal briefs, the terms of settlement can be favorable and are often more flexible than judicial decisions. For example, when homeless people settled their lawsuit challenging Atlanta's anti-urban camping ordinance in *Richardson v. Atlanta*, they were able to require that police officers designate the housing status of people detained, to better monitor police actions for patterns of discrimination against homeless people.

²¹ *City of Portland, Oregon v. Wicks*, Case No. Z711742, (Multnomah Cir. Court 2000).

²² "Settlement of Lawsuit Will Help Homeless, Attorney Says," M.R. Kropko, Associated Press, Cleveland, February 3, 2000.

Victories for the civil rights of homeless people have sometimes been broader than just determining the unconstitutionality of a particular ordinance. One successful challenge was in Los Angeles in December, 2000. Homeless people won a temporary restraining order against Los Angeles police. The injunction prohibited police harassment of homeless people, and disallowed the routine property confiscation that went on in the city.²³

Despite the possible flexibility of settlements and the positive changes these lawsuits have accomplished locally, lawsuits are expensive and homeless people do not always benefit. It takes a great deal of evidence and expense to have a judge consider discrimination against homeless people as a city-endorsed police practice, and so lawsuits alone are not the best way to address all anti-homeless practices.

Two-pronged law-and-organizing approaches have been successful. For example, such a strategy overturned an Austin, Texas, anti-camping ordinance. The ordinance was put in place in 1996 at the urging of downtown businesses and against the vocal opposition of homeless residents. A volunteer family law attorney agreed to assist homeless people and advocates in the effort to overturn the law. There were 12 pretrial hearings in the case challenging the constitutionality of the ordinance, and organizers used these opportunities to stage media events to educate the public.

The president of House the Homeless provided hundreds of hours of testimony that was supported in court by folks from the homeless community. Together, they turned every adversity into a media event. When the downtown businesses called homeless people “drunks and winos,” House the Homeless exposed the business districts

²³ David Rasenweig, Erika Hayasaki, "Judge to Bar Police Harassment of Skid Row's Homeless," L.A. TIMES, December 2, 2000.

as alcohol enablers through their sale of fortified wine. HTH picketed business patrons during the height of happy hour. Organizers passed out leaflets, held picket signs and wrote legislation, which held local businesses accountable for their participation in the criminalization and perpetuation of homelessness. The group also brought their story to the public in the newly-published street newspaper, the *Austin Homeless Advocate*. Eventually, in May 2000, at a hearing with 50 homeless men and women present, a judge cut back the law and found that sleeping could not be criminalized.

Organizing Victories

Local organizations have used grassroots organizing strategies to effectively change anti-homeless city policies to force cities to address the root causes of homelessness. After the City of Baltimore banned service providers from serving food in front of City Hall, local homeless people and members of advocacy groups protested.

After the City of Baltimore banned service providers from serving food in front of City Hall, local homeless people and members of advocacy groups protested. The organized local response spurred media coverage and shortly thereafter, in December 2000, the mayor announced that he would establish some daytime resource centers for homeless people, as recommended by a city task force.

The organized local response spurred media coverage and shortly thereafter, in December 2000, the mayor announced that he would establish some daytime resource centers for homeless people, as recommended by a city task force.

Service providers in Portland, Oregon, organized in the summer of 2000 to prevent a similar city threat from taking effect. The city tried to shut down a meals program that had operated in the Sunnyside Centenary United Methodist Church for 16 years. The City told the church it had to limit attendance at church services. The city's shut down order raised a "hue and cry" from Portland's religious community, all denominations, and four months after the initial order, the city agreed to let the church's programs for homeless people remain operational.

Homeless advocates have also used media strategies to keep city governments in check. Through a "Public Records Act Request," the San Francisco Coalition on Homelessness uncovered a city plan to arrest homeless people for possessing shopping carts. Under the shopping cart policy, homeless people could even have faced felony charges. The Coalition immediately publicized the plan in the mainstream media, focusing on Mayor Willie Brown's involvement in creating it. The president of the San Francisco Board of Supervisors called the shopping cart policy "wrongheaded," and a week after arrests were supposed to start, the mayor denied that the plan ever existed.²⁴

Through a variety of organizing, media and legislative advocacy strategies, homeless people are gaining similar small victories in cities nationwide.

Drastic political changes are needed to adequately address this problem—starting with broad accountability to homeless people. Changing the notion of elected officials that homeless people are not registered and do not vote will result in the beginning of political accountability. Solutions come from organizing and collaborating on campaigns like NCH's "You Don't Need a Home to Vote" national, non-partisan homeless voting rights and registration/education/get-out-the-vote campaign. Thousands

of poor and homeless people are becoming registered voters, and, although electoral and legislative processes may never offer the protections and guarantees we seek, they provide access to public policy. Participation in the public processes that allow discriminatory policies and practices to go unchallenged offers an important step toward change.

²⁴ Matier, P. & Ross, A., "SF Abandons Cart Retrieval," SF CHRON., A1 (Oct. 13, 1999).

VI. CONCLUSIONS AND RECOMMENDATIONS:

Across the nation, there are few homeless men, women and children who don't have to fear being criminalized for their poverty. Cities are exacerbating homelessness under the pretense of "revitalizing their neighborhoods." Local governments are creating a national trend of scapegoating homeless and poor people instead of providing permanent exits from homelessness and poverty, such as affordable housing, health services and a living wage. Worse still, the increasingly-profitable private prison industry uses homeless people as grist for the labor mill that replaces the predatory labor pools.

The questions faced are urgent. Is society, willing to accept an economic system that not only tolerates but exacerbates homelessness? We have lived sixteen years of "yes" to that question. The second and deeper question is whether or not we will allow those excluded people to act freely to meet their needs in public since they have no "private" options. When we read this report and the appendices included, the answer is an obvious "no."³¹

The trend we observe in this paper is for housed people, secure in their knowledge that they don't have to sleep on park benches, on subways or under overpasses, to make policy that defines appropriate use of those places. When that policy excludes practices that people have no other place to perform, the only way the trend can be reversed is for the policy makers to feel some impact.

³¹ Waldron, p. 328.

We can only reverse this trend by actively involving and organizing homeless people and those concerned with their treatment in concerted efforts to create impacts on the lives of policy makers.

Organizing models must be developed that are creative, inclusive and result in holding businesses and elected

"The freedom that means the most to someone who is exhausted is the freedom not to be prodded with a nightstick as he tries to catch a few hours of sleep on a park bench."

--Dr. Jeremy Waldron, p. 317.

officials accountable for the creation of policies and the implementation of practices that criminalize poor people.

A. Education and Communication:

People may not want to be confronted with the sight of homeless people because they are reminded of urgent needs they feel helpless to meet. They are also unwilling to make contact with people who may cause them emotional or even physical discomfort. As a direct result of this discomfort, many people are willing for homeless people to be deprived of their only opportunities for places to sleep.³²

These intersections of human need and human reluctance are opportunities for education. Most people who have been "bothered" by homeless people are possible targets for engaging in the larger conversation about causes and conditions of homelessness, with the practical information about the costs of incarceration provided as a footnote. Thus, because of the natural proximity of business to homelessness, workers

³² Waldron, p. 327.

in cities and towns are apt to engage in discussions of practical realities and appropriate solutions.

How many middle class business people realize the resourcefulness required to spend time on the streets, in situations of danger, without any place of safety, taking nothing for granted?³³ How many of us realize the value of the freedom to choose a place to be sheltered from the weather?

Tens of thousands of homeless people have been harassed, cited, fined, arrested, and lost their property because of locally initiated and state/federally-ignored criminalization. Keeping the data and experiences from local monitoring projects in a national resource repository allows isolated incidents to be communicated among local organizers and then shared at a national level. Legal and advocacy expertise is shared from national to local groups and then among local groups to continue the process of recognizing national trends, common issues and strength of numbers. Suddenly, homelessness and the process of criminalizing homeless people takes on a national identity. The local individuals become part of a national struggle which gives rise to a national campaign, and a movement is born.

Homeless people are encouraged to sustain the day-to-day struggle for their own rights when they see that their efforts have impact and their opinions are heard. People can relate to a national campaign that reflects their experiences, takes on their issues, supports the development of their leadership, and affords them a meaningful voice in the fight. The participation and leadership of people experiencing homelessness is crucial to the success of local and national efforts.

³³ Ibid. p. 317.

Communication must focus on the authors of policies and originators of practices of criminalization. Local governments that continue to violate the civil rights of homeless people, must be named, cited and required to abide by whatever statutes and regulations control their actions. The consequences that are felt most dramatically are financial consequences, and remedies are available to organizers through insistence on enforcement of regulations and statutes governing much of the federal funding that comes to local governments.

Communicating the work of local groups around the country who have confronted oppressive policies and practices strengthens those groups in the face of overwhelming pressure. Tactics are used to silence activists that range from the withholding of funding to media attacks. Just as important as sharing the pressures are sharing the victories. Communicating nationally and locally about campaigns that have been successful, about useful training models, funding strategies, and technical support will galvanize our movement.

The public information campaign must be geared towards: 1) alerting homeless and poor people that a new civil rights movement is building; and 2) alerting the general public that rights lost to any segment of our society are rights lost to all of our society.

It is not trivial to say that “the war on poverty has become a war against the poor.”

B. Organizing for Change

The struggle to end the civil rights violations against homeless people and the system that creates these injustices begins in the streets, shelters, welfare centers, labor pools, Single Room Occupancy (SRO) hotels, transitional housing units, blood plasma

centers, and abandoned buildings. Those most affected by the injustices must play a leading role in identifying the problems and developing the solutions. Organizing people experiencing homelessness requires creating ways in which they can voice their concerns and hear their issues articulated and reflected in the work to end homelessness. It also requires being sensitive to the fact that many formerly homeless people are reluctant to be identified with homelessness. Because their voices continue to provide a powerful witness, we must emphasize the fact of homelessness as an experience, not a type or category of individuals, e.g. “the homeless.”

Organizing around homelessness also requires sensitivity to the fact that people who are experiencing homelessness are living in crisis and are frequently unsure about a bed or a meal – participating in meetings is not an option. Additionally, many people who use the “service system” are distrustful of activities supported by service providers and advocates. Effective organizing models need to be developed which uniquely suit the communities they serve. Thus, when organizing with homeless people, we must address their immediate needs and provide the necessary support to ensure their ongoing participation in creating long-term solutions.

Effective organizing includes levels of participation that can impact public policy, programs and legal strategy development. Organizing begins with extensive outreach, in which the input gathered directly from homeless people drives the working agenda. This outreach has four main purposes: 1) to provide information to poor and homeless people about their rights; 2) to record civil rights abuses, including police interaction with homeless people, through written and video documentation; 3) to provide information about opportunities for participation in the work to affect change; and 4) to gather ideas,

insights and opinions about solutions to poverty and homelessness. The information gathered directly drives the work, so that poor and homeless people bring their agendas to the work.

In order to involve homeless and poor people at all levels of work, including conducting outreach, building an advocacy agenda, developing policies and programs, and bringing forth litigation when appropriate, deliberate leadership development must be fundamental to our work.

The action and advocacy agenda is designed through collaboration among homeless people, providers of housing and support services, members of the legal community, as well as concerned community members. Using documented information gathered through outreach, broad community participation, and expertise, this collaboration can develop ways to change ineffective and abusive policies. These coalitions will coordinate the design and development of new ways to guarantee housing and necessary services to all.

Fusing outreach, advocacy, direct action, and litigation with policy and program design can produce permanent solutions to poverty and homelessness.

C. Legal Remedies:

Regular court challenges to allegedly unconstitutional laws and policies that impact homelessness continue to provide important victories as well as useful precedents. The cases cited in Appendix II are provided in sufficient detail and are catalogued with both NCH and NLCHP for easy reference and contact information.

Less frequently, however, do activists and advocates challenge the legality of zoning regulations and housing exclusion practices that may violate fair housing law. Because legal resources are scarce and expensive when not offered in the context of public practice, there is still much that must be done to eliminate oppressive statutes, ordinances and regulations.

Still less frequently have groups used HUD's regulations requiring local jurisdictions to certify that they are identifying and removing obstacles to housing and supportive services for poor and homeless people. Connecting each city's treatment of homeless people with its continuing to qualify for other HUD funds will provide enough potential financial impact that there will surely be some response. In isolated challenges, local advocates would be resisted; however, in a united movement to bring a national challenge to HUD against all cities in violation of those certifications, there could be victory.

Organizations like the National Law Center on Homelessness & Poverty stand ready to provide technical expertise and direct assistance to groups willing to explore legal action.

D. Policy Recommendations

1. All people will be assured housing, health care, livable income, education and access to public and private accommodations, spaces, and services, regardless of race, ethnicity, national origin, immigration status, age, gender, religion, familial status, sexual orientation, health status, socioeconomic status, and housing status.

a. Protected class for socioeconomic status.

- b. Right to register and vote for all, including homeless people.
- c. Homeless children assured right to education in mainstream schools.
- d. Pass “hate crimes” legislation using protected class status.
- e. Prevent loss of custody of children because of homelessness.
- f. Immediate relief from harassment and arrest.
- g. Immediate access to treatment on demand outside the criminal justice system.

2. All people will be assured livable incomes indexed to the cost of housing.

- a. Establish a universal living wage indexed to the cost of housing.
- b. All income supports indexed to housing costs.

3. All people will be assured quality health care through a national system that is universal, comprehensive, accessible, culturally appropriate, affordable, and accountable to the public.

- a. Establish single-payer health care system.
- b. Immediate access to health care for homeless people.
- c. Immediate access to housing for people with any kind of health care needs.
- d. Immediate access to treatment instead of incarceration.

4. All people will be assured safe, decent, accessible, affordable, and permanent housing.

- a. Eliminate discrimination in housing.
- b. Immediate access to housing for homeless people.

- c. Targeted homeless prevention programs.
- d. Preservation of all publicly subsidized housing.
- e. Immediate moratorium on destruction of publicly subsidized housing.

VII. BIBLIOGRAPHY

Andrews, Nancy O. "Housing Affordability and Income Mobility for the Poor: A Review of Trends and Strategies." *Meeting America's Housing Needs*, April 1998, p. 2. citing Kathryn Edin and Laura Lein, *Making Ends Meet*, How Single Mothers Survive Welfare and Low Wage Work, 1997, The Russell Sage Foundation, p. 37.

Bernstein, Nina. "Deep Poverty and Illness Found Among Homeless." *New York Times*, A 13, December 8, 1999.

Casa, Kathryn. "Prisons: The New Growth Industry." *National Catholic Reporter*, July 2, 1999.

Daskal, Jennifer. *In Search of Shelter: The Growing Shortage of Affordable Rental Housing*, 1998. The Center on Budget and Policy Priorities.

Davis, Angela. "Masked Racism: Reflections on the Prison Industrial Complex,"

Davis, Mike. *City of Quartz*, 1990. Vintage/Random House, New York City, 1990.

Dolbeare, Cushing. *Out of Reach: The Gap Between Housing Costs and the Income of Poor People in the United States*. National Low Income Housing Coalition, 1999.

Elsner, Alan. "Hepatitis C Spreads Mostly Unchecked in Prisons." Reuters, April 5, 2001.

Harris, David A. "Driving While Black: Racial Profiling on our Nation's Highways." University of Toledo College of Law, *ACLU Special Report: Racial Profiling in American*, 1999, p. 2

Justice Policy Institute. "Too Little, Too Late: President Clinton's Prison Legacy." February 19, 2001.

Kropkp, M.R. "Settlement of Lawsuit Will Help Homeless," Attorney says. Associated Press, Cleveland, February 3, 2000.

Levin, Tamar. "Little Sympathy for Remedy for Inmates Who Are Raped." *New York Times*, April 15, 2001.

Matier, P. & Ross, A. "San Francisco Abandons Cart Retrieval." San Francisco Chronicle, A1 (Oct. 13, 1999).

National Alliance for the Mentally Ill and Public Citizen's Health Research Group, *Criminalizing the Seriously Mentally Ill*, 1992.

National Coalition for the Homeless, *Homelessness In America: Unabated and Increasing*, 1997.

National Institute of Justice, U.S. Department of Justice. *Police Responses to Special Populations*, Oct. 1987.

The National Coalition for Jail Reform: A Unique Experiment. Washington, DC, 1985.

Oberlin Action Against Prisons. "Ten Things You Should Know About Prisons in the U.S." n.d.

O'Meara, Kelly Patricia. "Prison Labor is a Growth Industry." *Insight*, May 24, 1999.

Olson, Joel. "Gardens of the Law: The Role of Prisons in Capitalist Society." *Crisis*,

Prison Activist Resource Center, www.prisonactivist.org. "What is the Prison Industrial Complex?"

"Prisons Replace Hospitals for the Nation's Mentally Ill." *The New York Times*, March 5, 1998.

Parade Magazine. "National Poll." Jan. 9, 1994. (77% believe government not doing enough, 65% would give if there were a check-off box on tax return form); Toro, Paul,

and Marique, Manel, "National Public Opinion on Homelessness: Is There Compassion Fatigue?" Annual Meeting of the American Public Health Assoc. (Nov. 1994).

January 9, 1994.

Rasenweig, David, and Erika Hayasaki. "Judge to Bar Police Harassment of Skid Row's Homeless." Los Angeles Times, December 2, 2000.

Schlosser, Eric. "The Prison-Industrial Complex." The Atlanta Monthly, December, 1998, Vol. 282, No. 6, pages 51 – 77.

U.S. Department of Housing and Urban Development. "Waiting In Vain: An Update on America's Housing Crisis." Report No. 99-48 (March 8, 1999).

U.S. Department of Justice, Bureau of Justice Statistics. *Prison and Jail Inmates at Midyear*, 1997.

Waldron, Dr. Jeremy. "Homelessness and the Issue of Freedom, *UCLA Law Review*, 39 (1991), 299-324.

-- "Homelessness and Community," April 1998, a paper prepared for
Ethics Seminar at Georgia State University.



I. THE CITIES REPORT

The following reports represent fifty-seven (57) cities and towns in twenty-nine (29) states, the District of Columbia, and Puerto Rico. In interviews conducted in 2000 and 2001, homeless people, advocates, service providers and public officials describe experiences of harassment, arrests, and crimes of hatred and violence perpetrated on individuals because of their condition of homelessness. Frequently these experiences are reported at some cost to the individual or organization.

Taken separately, these are stories of anguish, pain and loss. Taken in the aggregate, they present to us a picture of a growing tendency in this country to subordinate the human and civil rights of our most vulnerable citizens in the interest of

business development and political expediency. At best the policies and practices described in this section are implemented as a result of frustration and lack of political and social will to enact solutions. At worst they are the result of deliberate plans to incarcerate and use a group of citizens as a source of free labor. In either case civil and human rights of people with urgent needs are violated. These experiences are now the quantified basis for a national response. Please communicate your own experiences and information to both the National Coalition for the Homeless (202) 737-6444 and the National Law Center on Homelessness & Poverty (202) 638-2535 or to a local group in your community (See listing in Appendix VIII.)

Anchorage, AK	Honolulu, HI	Portland, OR
Phoenix, AZ	Chicago, IL	Philadelphia, PA
Tucson, AZ	Indianapolis, IN	Pittsburgh, PA
Buena Park, CA	Jeffersonville, IN	Providence, RI
Los Angeles, CA	Covington, KY	Charleston, SC
Oakland, CA	Louisville, KY	Sioux Falls, SD
Sacramento, CA	New Orleans, LA	Austin, TX
San Diego, CA	Portland, ME	Dallas, TX
San Francisco, CA	Baltimore, MD	El Paso, TX
San Jose, CA	Detroit, MI	Fort Worth, TX
Santa Cruz, CA	Pontiac, MI	Houston, TX
Colorado Springs, CO	Las Vegas, NV	San Antonio, TX
Denver, CO	Reno, NV	Salt Lake City, UT
Washington, D.C.	Albuquerque, NM	Lynnwood, WA

Jacksonville, FL

New York, NY

Seattle, WA

Miami, FL

Charlotte, NC

Wheeling, WV

Palm Beach County, FL

Cincinnati, OH

Athens, GA

Cleveland, OH

Atlanta, GA

Toledo, OH

Valdosta, GA

Tulsa, OK

San Juan, Puerto Rico

Anchorage, Alaska

According to an article written by Martha Amore, a case manager at Rural Community Action Program's Homeward Bound Program, there have been at least five murders of homeless women in Anchorage. Amore spoke with a client who said, "I feel hunted," because of the five murders which occurred within fifteen months of each other. The Anchorage Police Department has no leads, and there have been no arrests in the cases.

Phoenix, Arizona

The City of Phoenix is undergoing gentrification and revitalization. These processes directly impact individuals experiencing homelessness, estimated to number 8,000 to 10,000 at any given time, according to Dr. Louisa Stark of the Phoenix Consortium for the Homeless. Shelters, medical services and food programs are all being cut back and the unofficial policy toward homelessness is "out of sight, out of mind." This approach discourages an enlightened view of the problem, and offers no real solutions to homelessness.

Stark notes also that city officials attempt to displace homeless individuals from downtown or tourist areas using many tactics. They have attempted to relocate all of the homeless services to a "campus" that will provide medical care, food, shelter and employment programs for homeless individuals. Homeless people are relocated to an undesirable area of town surrounded by a dog pound, the county jail and a rendering plant. Only one medical facility is open to homeless individuals and is only open during business hours, five days a week.

The Phoenix Police are involved in the effort to remove homeless individuals from the public view. Police officers target drug dealers and others engaged in criminal activity, ostensibly for the safety and protection of homeless individuals. Stark has seen this practice lead to the arrest and round up of many homeless individuals.

Tucson, Arizona

Carol Ann Alaimo, in the May 1, 2001 *Arizona Daily Star* wrote an article about the ordinance designed to ban begging and selling on city boulevards. The ordinance, passed by Tucson City Council in October, 2000, denies newspaper hawkers what is often their only source of employment and income. In the article Brad Maroc says, “I don’t know what I’ll do. Try to look for work, I guess.” Brad is one of the 50 full- and part-time newspaper hawkers, many of whom are homeless, who were employed by local papers. The article goes on to state that only a handful of the hawkers have been able to find other sources of employment since the ordinance was passed.

Buena Park, California

Jerry Hicks of the *Los Angeles Times* writes about a 66-year-old woman on trial for camping in a public place and storing camping gear on public property. The article, “Homeless Grandma Hopes a Trial Will Help Her Elude Jail,” was published on May 22, 2001. Diana Grue has been arrested twice in the past six years for camping in a public place. All of the other individuals arrested in a sweep last fall were issued fines. Grue, however, was a repeat offender, so she was offered fifteen days in jail. Grue chose to plead not guilty. This case marks the first time that there will be a court hearing for

someone charged with the anti-camping ordinance. Grue became homeless when zoning ordinances pushed her out of an acquaintance's garage, and she contends that she has the right to live and therefore the right to camp near the railroad tracks.

Los Angeles, California

The City of Los Angeles is moving in the same direction with its homeless community as other cities that are revitalizing their downtown centers. The push for newer, more modern facilities leaves little room for homeless peoples' concerns, safety and well-being, say advocates from the Los Angeles Coalition to End Hunger and Homelessness and the Los Angeles Community Action Network. Instead of developing solutions that aid homeless people in making the transition from the streets, Los Angeles continues to criminalize homeless people.

Pete White of the L.A. Coalition notes several ways in which the City is criminalizing homelessness. Aggressive panhandling ordinances are heavily enforced in downtown Los Angeles areas. The City is attempting to create a very punitive anti-urination ordinance. The first offense is a \$1000 fine, and the second offense can mean six months in jail.

Pete White reports that aggressive police sweeps target the downtown homeless community. Recent *L.A. Times* articles cited instances of "homeless people having as many as three citations stuffed in their pockets at one time." The *L.A. Times* went on to say that most of these citations were directly attributed to the latest barrage of L.A.P.D. sweeps. Homeless peoples' freedom of movement in specific areas of downtown is

severely restricted, and there is a policy of relocating people to areas of downtown that are “out of sight and out of mind.” This restriction of movement often denies homeless people access to services.

Business Improvement Districts (BIDs) in L.A. prove to be especially restrictive to homeless individuals. According to the L.A. Coalition, BID Security Officers frequently violate the civil rights of homeless people by using power and authority that they do not actually possess. Examples of abuse include, but are not limited to, pushing people away from certain areas, breaking up groups of people who are standing and talking, asking homeless people for identification and detaining them without cause.

Oakland, California

Homeless staff writers for *POOR Magazine* report that being homeless in Oakland has become increasingly dangerous since former Governor Jerry Brown became Mayor of Oakland. As the face of Oakland changes, wealthy people are beginning to move into areas that once included only light industrial businesses and abandoned buildings. As elsewhere, homeless people bear the brunt of this gentrification wave. Increased police insensitivity has accompanied the increased presence of police in all parts of the city. Police harass homeless people for performing acts in public that they are forced to perform in public because they have no homes. These acts include sleeping, urinating and loitering. Areas that were once safe for people to find shelter are now being cleared of homeless people by the police at the behest of residents newly housed in the area. Panhandlers on Broadway are now being cited when they used to be left alone. Downtown artistic events bring a heightened and more active police presence to the area.

In the last year, there has been increased police presence, and officers use a profiling system to target young men and women of color around housing projects all over the City. Housing project police and security add to the harassment of homeless individuals.

The city's policies exacerbate rather than address homelessness. More and more people are being forced onto the streets of Oakland as a result of the City's refusal to enforce "just cause" eviction legislation and because of the city's policy of allowing uncontrolled growth and rampant development all over the city.

There has been no litigation and few proactive solutions aimed at redressing the harms being directed at homeless and poor people in Oakland. Homeless individuals expressed their concern when asked about living on the streets of Oakland. One individual said, "It was never easy to be homeless in this city, especially because I am also dealing with mental health issues, but in the last two years I have been unable to stay downtown at all." Another individual's response was, "I have been harassed by cops twice as much ... we don't fit into the new 'look' of the City of Oakland."

Sacramento, California

In Sacramento, homeless people regularly face police sweeps, as well as

Although there are still sweeps in Sacramento, the most recent one in the downtown area, the police are somewhat more civil when citing or sweeping. Instead of drawing their guns, they say things like, "Go to West Sacramento," or, "Do you want to go to jail?"

harassment from private security forces, say Cliff Crooks and Paula Lomazzi of the Sacramento Homeless Organizing Committee. The police sweep the river banks

regularly, using a city statute that makes camping illegal. Two years ago, the police often kicked sleeping homeless people and brandished their guns to frighten them. The SHOC documented police abuses. When SHOC got news coverage for their river clean-up project, they mentioned the police treatment of homeless people, and the TV station aired it. Although there are still sweeps in Sacramento, the most recent one in the downtown area, the police are somewhat more civil when citing or sweeping. Instead of drawing their guns, they say things like, “Go to West Sacramento,” or, “Do you want to go to jail?”

Crooks and Lomazzi note that homeless people are still regularly cited for minor infractions such as camping and trespassing. When homeless people arrive in court, they are pressured to plead “no contest” to the citations. However, if the homeless person persists and pleads “not guilty,” the charges are usually dismissed.

Private security forces in Sacramento include a group called the Downtown Guides, an untrained security force employed by the Downtown Partnership. The Guides show visitors around and move homeless people along. After repeated complaints from SHOC and other advocates, the Guides finally agreed to wear name badges for identification. A more official private security company is the NSA, which patrols the Richard Boulevard Business Improvement District to keep the area clear of homeless people.

There are often people sleeping outside a local church building, and they have had eggs and rocks thrown at them. People who live in their vehicles along the river have also had rocks thrown at their vehicles, according to Lomazzi and Crooks.

A Sacramento program called HOPE, operated by police, social services, veteran workers, and former drug and alcohol users, places mentally ill homeless people into programs and housing. Homeless advocates say HOPE is effective. There is also a program called “Return to Residence” sponsored by the police. Homeless advocates are dubious about the program, calling it a “get rid of homeless people scheme,” but some homeless people have received help through the program.

San Diego, California

“San Diego is moving aggressively to deal with its homeless population in an inhumane and inhospitable manner,” says Norma Rossi, founder and director of the San Diego Coalition for the Homeless. Rents are going up in San Diego, and the number of facilities designed to serve the needs of homeless individuals is decreasing. There is a shortage of beds and places where homeless people can get a meal or attend to their medical needs.

Downtown San Diego is also in the midst of a massive redevelopment/revitalization/gentrification campaign. Instead of finding equitable solutions to homelessness, the City has chosen to criminalize homeless individuals. The City has adopted an unofficial policy of using deadly force to subdue mentally ill homeless persons who behave threateningly toward police officers. Over the past twelve months, five mentally ill homeless people have been shot by San Diego Police Officers, and the shootings have all been ruled “justifiable.”

The City has withheld funds earmarked by HUD for homeless shelters. In addition, street sweeps are conducted which target homeless individuals for petty

infractions and misdemeanor violations of city and county ordinances. Finally, many rescue missions and shelters that formerly served homeless individuals have been converted into drug and alcohol rehabilitation facilities, with a subsequent reduction in the number of beds for their patients.

San Francisco, California

Although the City of San Francisco has a long history of programmatic harassment aimed at homeless people, civil rights violations have only increased in the past two years according to Adam Arms with the San Francisco Coalition on Homelessness. In 1999 and 2000, there were over 42,000 citations given to homeless people for sleeping and camping in the park, urinating in public, trespassing, and drinking in public. New legislation was proposed that would make it illegal to panhandle on medians, but that proposal was defeated by organized community opposition. The police selectively enforce laws against jaywalking, obstructing the sidewalk, and loitering against homeless people. Drug-free zones and stay-away orders are also misused. The criminalization continues to escalate under the guise of improving San Francisco's "quality of life."

The San Francisco Police and other city departments use these laws as tools to "sweep" homeless people out of certain areas. Sweeps are sometimes conducted in connection with political events. However, there are ongoing sweeps all over the city, continually conducted at the whims of city officials and individual police officers. According to Renee Saucedo from La Raza Centro Legal Day Labor Program, these sweeps make it more difficult for homeless day laborers, who stand on certain streets

waiting for trucks to come and hire them to work for the day. A day laborer reported, “I was just standing on the sidewalk, looking for work, and the cops came by and forced us to move.”

For years, the San Francisco Police Department, teamed up with the Recreation and Parks Department and Department of Public Works (DPW), have organized campaigns to confiscate homeless people’s property. During the past six months, the property confiscation has escalated. Although state law mandates that abandoned property be stored for a minimum of 60 days, the teams of city employees who take property from homeless people usually throw it away. Recently in one area of the city, homeless people reported that many people lost property. Everybody whose property was confiscated lost warm clothing, and the city did not store anyone’s confiscated property; it was all thrown away. One person was watching a friend’s property while the friend went to an appointment, the police and DPW took the property against the protestations of several people. The confiscated property was placed directly into a trash compactor. The person who owned the property lost warm clothing, toiletries, medication, and irreplaceable family photographs. The person was seen shaking and



crying in despair and anxiety as a result of the loss. This kind of property confiscation is routine in San Francisco.

The San Francisco Coalition on Homelessness states that the courts do not offer homeless people protection for many of these rights violations. In 1999, the City

approved funding for the City Attorney Prosecution Program, and basically paid a City Attorney to sit in traffic court, prosecuting homeless people on “quality of life” infractions. The following year, the program was transferred to the District Attorney’s office. The DA continues to prosecute homeless people, although at a slower pace. The District Attorney’s office is currently promoting a system of courts held in district police stations just for homeless people. The “community courts” would not have a neutral decision-maker, homeless people would not be allowed legal defense, and the emphasis would be on issuing punishment or community service rather than on determining guilt or innocence. Considering the number of tickets that police officers write to move a homeless person along, even when the individual has not violated the law, these courts would further abrogate the rights of homeless people. People who live in their vehicles are afforded no due process rights. Arms notes that the police target people who live in their vehicles for small violations such as expired registration, and they paper their homes with 72-hour notices. The police often tow for these offenses, sometimes illegally. The City of San Francisco does not provide a fair hearing when they tow a vehicle. As a result, many homeless people have been unconstitutionally deprived of a vehicle they are forced to call “home.”

Adam Arms has seen several instances of violence and hate crimes perpetrated toward homeless individuals. In one incident a homeless person was set on fire. In another, a police officer used his motorcycle to run over the legs of a sleeping homeless person. Recently, a police officer who was known for his particularly abusive treatment of homeless people, made the paper for punching a handcuffed homeless person in the face after he burned a ticket the officer had just issued him for obstructing the sidewalk.

There were 183 homeless deaths in 1999, the largest number since homeless deaths have been reported in San Francisco.

The Coalition on Homelessness regularly conducts police sensitivity training, community education and organizing efforts. Advocates encourage the city to provide addiction and mental health treatment on demand. Groups working with poor and homeless people across the city lobby the local government for funding of more permanent solutions to poverty and homelessness. This collaborative, called the People's Budget, has pushed the City to allocate over \$40 million in new services for poor people over the last three years.

San Jose, California

"San Jose Police have used laws for the last ten years that target homeless people," says Sandy Perry with Community Homeless Alliance Ministry. Advocates attribute this practice to the gentrification of the city and skyrocketing housing costs. Rents have increased in Santa Clara County by a rate of 33%. If this trend continues, the monthly rent for a one-bedroom apartment in five years will be \$5,750.

The urgent issue is that there is no legal place to sleep if you are homeless. The city enforces a combination of various anti-homeless laws, many of which have been passed within the last ten years. Perry notes that one law is used against people sleeping along the rivers. The city has declared these areas "No Trespassing Zones," and people who sleep there are issued citations. The fines are too expensive for homeless people to pay, so they are often subject to jail time for their offenses. A recently-passed ordinance that prohibits people from sitting or lying on sidewalks in commercial districts is used to

target homeless youth. It is illegal to sleep in an automobile in the city. Through the STOP Program, property owners sign up with the Police Department in order to have them regularly sweep homeless people from private property and arrest those who do not leave.

Perry states that all of the parks close one hour after sundown. There is no sleeping in parks across the city. This law is particularly enforced in the downtown area. St. James Park has been an ongoing battleground between police and homeless people. The city is developing a Children's Playground and luring groups who serve free food away from the park by offering indoor kitchens. Both actions have resulted in homeless people being cleared from the public park.

Additionally, the police strictly enforce drug and alcohol laws in the parks. Sandy Perry asked a police officer why the police don't stop and interrogate intoxicated people as they enter the city's most luxurious hotel. The response was, "I would never do that. They are rich and have lawyers."

In 1997, the city threatened to close down a shelter for families located at the First Unitarian Church, according to Perry. The city cited zoning ordinance violations to justify the closure and threatened fines of \$2,500 every day the Church offered shelter to homeless men, women and children. The community Homeless Alliance Ministry responded with a massive media campaign that shamed the city into finding another building in which to shelter families. In addition, the city funded a program in which 15 families received permanent housing.

Due to community pressure the county coroner's office began recording the number of deaths of individuals experiencing homelessness in Santa Clara County

beginning in 2000. Forty-eight (48) homeless people died between February 2000 and December 31, 2000.

Santa Cruz, California

The most controversial and contested anti-homeless law in Santa Cruz is the sleeping ban. Robert Norse and Becky Johnson from Homeless United in Friendship and Freedom (HUFF) state that the law bans sleeping from 11 p.m. to 8:30 a.m. in cars, on streets, and even on some private property. The law, which used to carry a \$162 fine, was slightly softened as a result of protests, vigils, and publicity. In March 1999, the fine was reduced to \$54 and merely “sleeping” was dropped from a misdemeanor to an infraction for a second offense within 48 hours. Despite minor changes, the law is still in use, and in a recent survey, 12.5% of homeless people said they had been cited for sleeping. Police in Santa Cruz also cite homeless people for camping, sitting on the sidewalk, and being in the parks after 10 p.m. Norse and Johnson note that police officers discriminatorily enforce open container and dog leash laws.

The Santa Cruz panhandling law prohibits panhandling in groups of two, after dark, from a sitting position, within 50 feet of an ATM machine, in a doorway, or crosswalk. The law makes it illegal to lie while panhandling. While the law is strict by itself, the cops regularly go beyond it. Police officers have cited homeless people for panhandling even when they were complying with all the requirements of the law.

The pattern and practice of Santa Cruz city officials and police officers is to enact and enforce policies against homeless people. According to HUFF, parking lots are designed with a slant so homeless people cannot comfortably sleep in cars. While people

sitting on the sidewalks are trying to sell crafts, a police sergeant has taken their wares and given them away to passersby.

There are two all-night restaurants in town, and one is only accessible by foot over a freeway bridge, or a mile and a half walk around the freeway bridge. The police often cite homeless people with \$182 tickets for walking across the bridge, but the city has not created a pedestrian walkway to increase safety.

In contrast, safety officers were very active during the few days preceding the First Night New Year's celebration. Homeless people were ticketed when they didn't make it across the street before the light changed. The intersection where police were stationed was the main intersection between the homeless services building and Pacific Avenue where the First Night festivities were held.

Norse and Johnson state that one homeless man was targeted because he is especially visible. He is well known around the city because he sits on a particular bench wearing a plastic bag and holding a sign proclaiming his presidential platform. Once he was arrested the night before a downtown event. Then, the police got an injunction to require him to stay away from the bench for his own safety. After he moved to a different bench, he called the police once to complain about the way passersby were treating him, and the police cited him for disturbing the peace. Homeless advocates declare it ridiculous that the city spends thousands of dollars removing one homeless man from the bench in front of Bunny's Shoes.

The city has repeatedly declared shelter emergencies, and yet there are still only 28 spaces for people to sleep on the floor of a local church eight months of the year. There are between 1,000 and 2,000 homeless people in Santa Cruz. Norse and Johnson

comment that there is a lack of available services, and they add that there are only two beds in drug and alcohol treatment facilities that are reserved for homeless people.

Of 550 assaults on record with the police department for 1999, 51 cases involved a homeless victim. HUFF discovered that homeless people are beaten four to ten times more frequently than housed people, and a recent city survey indicated that 56.9% of homeless people had experienced violence but had not filed complaints.

There were 19 known homeless deaths in 1999. As part of the ongoing campaign against the anti-sleeping law, homeless advocates proposed a safe zone for homeless people where the ban on sleeping would not be enforced. The City Council voted to try the plan on a temporary basis, but did not provide toilets in the area where the ban was to be lifted. Local merchants objected, saying the homeless people were making a mess, and the City Council backed down and has since refused to reconsider lifting the sleeping ban again. Also, the city recently unveiled plans to tear down 47 units of affordable housing and build only 19 units in the same spot.

Colorado Springs, Colorado

There has been a noticeable increase in police activities over the last two years in Colorado Springs, according to Cyndy Kulp of the Housing Advocacy Coalition. Kulp and Cara DeGette of the *Colorado Springs Independent* newspaper note that sweeps occur around the city and the Colorado Springs City Council has recently passed the “Roadside Solicitation” Ordinance despite the fact that there is no proof that panhandlers are a threat to public safety. “The passage of this anti-panhandling ordinance has allowed

police to push people along, particularly around the interstate highway where there are bridges and abandoned industrial buildings,” notes DeGette.

Kulp states that individuals experiencing homelessness are targeted for things as simple as dropping a cigarette butt on the ground or using profanity. “The police are very active in rounding up homeless people and citing them for being on private property, as well as harassing homeless people on public property,” added DeGette. A controversial new mega-shelter is being built away from downtown as a way to decrease the visibility of homeless people in the downtown area. Kulp and DeGette cite successful litigation against anti-homeless ordinances and policies. The Denver ACLU challenged a State panhandling ordinance a couple of years ago and won.

Since this victory, the current “Roadside Assistance” Ordinance has passed. There was one police officer who was particularly “zealous” in his abuse of homeless people. After hearing complaints, *The Colorado Springs Independent*, a local newspaper, published several articles about the officer. The officer resigned, and he no longer harasses homeless people in an official capacity, according to DeGette. Cyndy Kulp outlines several constructive alternatives to criminalization that are in place in Colorado Springs. There was a push for a housing trust fund for affordable housing that was successful in acquiring \$460,000 over the summer of 2000. A local CopWatch has been organized and implemented, and a street paper in Denver called the *Denver Voice* is useful to educate people in the area.

Kulp cites one instance of a hate crime against individuals experiencing homelessness. There are rumors that some street kids beat a homeless person. Kulp notes that the suspected kids are not homeless children. Kulp also notes that two

homeless individuals have died in Colorado Springs. Kulp states that there are a few shelters available to individuals experiencing homelessness in Colorado Springs, but that they are overcrowded. The resources do not meet the need, and Kulp would like to see more homeless people involved in creating solutions to the problems.

Denver, Colorado

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In 2000 the City of Denver attempted to pass a restrictive ordinance banning aggressive panhandling, panhandling within twenty feet of an ATM, and sleeping in public, according to Jack Real of

the Colorado Coalition for the Homeless and Laray Kraeplin of the *Denver Voice*.

Kraeplin adds that the ordinance also would have made it illegal to wear military clothing without having been in the military. Homeless people and advocates fought the ordinance. As the result of a public dialogue on the ordinance, most of its provisions were dropped. However, notes Real, the ban on aggressive panhandling has been enacted.

Real cites other public battles concerning homelessness. The Denver suburb of Aurora proposed an anti-loitering ordinance. Despite picketing and some media

attention, the ordinance passed. In Denver two years ago, the council proposed a ban on panhandling or vending on medians. At the time, Denver had two competing newspapers, each of which hired vendors to stand on medians and sell the paper. The newspapers lobbied against the ordinance, and it was defeated.

Existing ordinances that have a negative effect on homeless people include ordinances that prohibit sleeping along Denver rivers. In the past few years, the city has passed ordinances affecting the areas along the Platt River and Cherry Creek parks. According to Jack Real, these laws make it illegal for homeless people to sleep there at night. Kraeplin adds that police also ticket homeless people for trespassing and urinating in public. If homeless people don't pay the fines from the ticket, there are additional fines when it goes to a warrant, and then jail time.

The enforcement of all these ordinances occurs in waves, depending on the city "climate" at the time, reports Real. Real and Kraeplin note that city officials allowed homeless camps along the river so people could help protect each other after seven homeless men suffered brutal deaths last year. When the International Summit of Eight was held in Denver three years ago, homeless people were told to leave the area. Real notes that homeless people often sleep on the warm grates near the city and county buildings downtown, and police are currently allowing that practice, although they have moved people along in the past. The Colorado Coalition for the Homeless owns a Single Room Occupancy (SRO) hotel across the street where they installed a port-a-potty on their property to combat complaints of defecation near the grates. Leaders of the Colorado Coalition were told the toilet was violating a city ordinance. In November,

2000, a city official called the office of the Colorado Coalition and asked for the return of the toilet.

Although there is some criminalization of homelessness in Denver, homeless advocates feel that the Denver Mayor, Wellington Webb, is not unsympathetic to homeless people and is aware of issues surrounding poverty. Denver police also treat homeless people more fairly than police do in other places; they enforce open container laws in a nondiscriminatory fashion, states Kraeplin.

Kraeplin and Real both note instances of deaths of and hate crimes against individuals experiencing homelessness. Late in 1999, seven homeless men were attacked and killed in a wave of violence against homeless people. In the past year, 52 homeless people have died in Denver, according to Real. The murders in the fall and winter of 1999 raised awareness about homelessness in the city. According to Kraeplin, several police officers knew two of the men who died, and a local homeless resident said that was the most effective police sensitivity training Denver officers have had.

Washington, D.C.

Advocates for individuals experiencing homelessness in Washington, D.C. agree that the City's treatment of homelessness has not changed significantly over the past five years. Most advocates agree with Terri Bishop from the Community for Creative Non-Violence when she says, "The police and government are insensitive, and the funding is not there. The residents and the government are not doing what they should do. Things have not changed." Some advocates believe that there have been some subtle changes in police behavior, criminalization initiatives and service provision, but most advocates agree that there is a shortage of affordable housing, mental health care and supportive housing, and treatment facilities.

Many advocates, however, believe that there have been changes for the worse in the homelessness service delivery system in Washington. Willa Morris from the Community Council for the Homeless at Friendship Place notes that City policies and funding initiatives have become "more conservative." Cheryl Barnes, who serves on the board of directors for both the National Coalition for the Homeless and the Washington Legal Clinic for the Homeless (WLCH), states that access to downtown shelters is more difficult, and rules are stricter. Barnes notes that the citizens of D.C. did away with Initiative 17 that gave everybody the right to emergency shelter. Shelters in the downtown area are now open only for overnight hours, and individuals who access the shelters must stay inside from 5 P.M. until 7 A.M. If an individual chooses to leave during those hours, even if it is to acquire food when the food at the shelter has run out, she or he cannot return to the facility for 30 days.

Barnes notes that the citizens of D.C. did away with Initiative 17 that gave everybody the right to emergency shelter. Shelters in the downtown area are now open only for overnight hours, and individuals who access the shelters must stay inside from 5 P.M. until 7 A.M. If an individual chooses to leave during those hours, even if it is to acquire food when the food at the shelter has run out, she or he cannot return to the facility for 30 days.

Ann Marie Staudermaier of the Washington Legal Clinic for the Homeless notes that there has been a shift in the focus of funding for homelessness policies. More emphasis has been placed upon permanent housing, and emergency services have experienced a loss in funding as a result. However, some advocates believe that the service provision system has improved overall. Michael Ferrell of the Coalition for the Homeless in Washington believes that the system has improved since 1994, and Linda Kaufman of the Downtown BID Corporation claims that services in the downtown area are more available and coordinated.

Advocates report that there are “quality of life” ordinances that target homeless individuals. However, Kaufman says that there are relatively few laws that target homeless individuals and that there have been unsuccessful attempts to pass new “quality of life” ordinances. Staudermaier cites an attempt in the City Council to pass a bill that combines several Nuisance property bills. One aspect of the bill, known as “The boarded up vacant property permissive inference of unlawful entry Act,” would allow Washington, D.C. Police Department officers to arrest and remove squatters in abandoned properties without specific complaints from the property owners.

Ms. Washington of the Hannah House, Staudermaier and Ferrell all note that there is an anti-panhandling law in Washington, and Ms. Washington states that this is the ordinance most often enforced against homeless individuals. Staudermaier has heard from homeless individuals that the Panhandling Control Act of 1993 is frequently enforced against individuals practicing aggressive panhandling as well as against individuals engaging in panhandling that is legal and protected, according to the ordinance. Staudermaier also notes that Washington, D.C. Police Department Officers often misuse the anti-camping law to ticket or “warn” (i.e. wake up and order to move on) individuals experiencing homelessness. “The law only prevents setting up or maintaining any camp or any temporary place of abode in any tent, wagon, van, automobile, truck or house trailer, on public or private property, without the consent of the Mayor,” says Staudermaier. The tickets carry a \$50 to \$100 fine, which, if not paid within 14 days, can lead to bench warrants and subsequent arrests despite the fact that the maximum sentence for an infraction of this ordinance is a \$300 fine and no jail time.

Although most advocates agree that there are few instances when general laws are used to target individuals experiencing homelessness specifically, Staudermaier does note the misuse of a few municipal “public space” regulations to ticket homeless individuals. These laws date back to the 1880’s, and they include laws that prohibit “occupying public space beyond the extent permitted by law,” leaving any “goods, wares, or merchandise in any public space for more than two hours,” or allowing “empty crates, baskets, buckets, tubs, cans, boxes, kegs, cartons, or barrels” to remain in any public space. The tickets for infractions of these ordinances usually read “storage in public space” and again carry \$50 to \$100 fines and the possibility of arrests if the fines are not paid.

Some advocates believe that street sweeps occur on a regular basis, and especially during major events in the City, while other advocates believe that police harassment of homeless individuals seldom occurs. Barnes states that Washington, D.C. Police Department Officers have stopped harassing homeless folks in the parks and on the streets. She believes that the officers have been educated concerning the available resources, and that they often defer incidences involving homeless individuals to outreach or emergency response teams. Bishop agrees that officers frequently bring homeless individuals to the homeless service providers. However, Barnes goes on to note that street sweeps did occur most recently in connection with a United Nations conference. She also mentions that homeless individuals are asked to stay away from the White House whenever there are visiting dignitaries.

Bishop also notes that large events at the MCI Center often trigger sweeps of homeless individuals, and Kaufman links the recent NATO summit to a street sweep. Ferrell sees the occurrence of street sweeps as slightly more frequent, and he cites the recent colon cancer weekend, the NATO summit, Aids Walk and the Taste of DC Weekend as examples. Washington states that the “quality of life” ordinances are selectively enforced in order to push individuals experiencing homelessness out of some areas of town and into others. Staudermaier believes that local businesses place pressure upon the police to clear out the areas surrounding their businesses. Although the incidences of complaints from homeless individuals about such practices have decreased over the past year or two, Staudermaier believes that police have become more subtle in their methods. She also believes that victims are just not complaining about the

treatment, or are asserting their rights and refusing to move, as people are counseled to do in Street Rights literature.

The Business Improvement Districts (BIDs) of Washington D.C. are making strides to address homelessness, according to most advocates. Barnes notes that the downtown BID has added a drop-in center that provides various resources and services. Staudermaier and Kaufman note that there are three major BIDs in Washington, D.C. The downtown BID has a full-time homeless liaison in addition to the drop-in center that Barnes mentions. The Golden Triangle BID employs a part-time homeless outreach worker, although Staudermaier feels that this group is more interested in making homeless individuals less visible than in providing concrete assistance.

The Georgetown BID does not have a homeless liaison or outreach worker, but city workers in the area are sensitive to the needs of homeless individuals, according to a local service provider. Ferrell states that BIDs are putting money and resources into services for the individuals experiencing homelessness in the area. However, Ms. Washington of Hannah House says that BIDs have treated homeless individuals poorly. She feels that the police in these areas try to move homeless individuals out of the area. She notes that loitering laws are beginning to be heavily enforced in the area around a new convention center near the Hannah House.

Advocates all mention the Washington Legal Clinic for the Homeless as an organization that is challenging city policies criminalizing homelessness. Staudermaier says that the Washington Legal Clinic for the Homeless attempted to bring a lawsuit against the city for harassment and wrongful arrest of homeless individuals. The challenge attacked such practices as demanding to see an individual's identification or

searching bags without cause or ordering people to move along without cause. No local law firms seemed interested in pursuing the case because of an apparent lack of evidence. The Legal Clinic refers many homeless individuals to the local ACLU to help with legal challenges to improper police conduct.

The criminalization of homelessness has fostered the erroneous belief that homeless individuals are worthless and even threatening to the city and its other citizens. These beliefs have led to needless deaths and hate crimes against homeless individuals. Barnes tells the story of a homeless man who died of an apparent asthma attack in a D.C. courtroom. Robert L. Waters complained of not being able to breathe at least three times, but the Judge continued to hear cases. The judge, Washington, D.C. Police Department officers, and courtroom staff apparently believed that Mr. Waters was faking. He was taken back to his cell where he died a short time later. Mr. Waters never received the medical attention that he needed.

Barnes also notes that seven homeless individuals have died from hypothermia within the last year. Washington states that over 150 people have died on the streets in the last two years in Washington, D.C. Ferrell reports that there is a recent story of a police officer allegedly ordering her dog to attack a homeless man in Takoma Park, Maryland.

Alternatively, the City of Washington, D.C., offers many constructive alternatives to criminalization in relating to the issue of homelessness. Staudermaier says that WLCH is conducting a “Homelessness 101” training for new and lateral recruit classes at the Police Training Institute. Plans are also in place for a four hour in-service training for every Washington, D.C. Police Department officer involving methods for

dealing with persons with mental illnesses and individuals experiencing homelessness. The NAACP Police Task Force monitors and advocates with the police concerning issues of police brutality. In addition Staudermaier notes that the D.C. Citizens Complaint Review Board has been resurrected, providing a forum for individuals to lodge complaints against officers.

Washington, D.C. public schools include a homelessness awareness month in their curriculum, and the Fannie Mae Foundation holds an annual walk to raise money for homeless services, according to Ferrell. Both of these events help to educate the public about the issue of homelessness. Barnes cites the Faces of Homelessness Speaker's Bureau of the National Coalition for the Homeless as a successful public education initiative. Individuals who are experiencing or have experienced homelessness travel to different colleges, church organizations and other civic organizations to share their stories with event attendees.

Jacksonville, Florida

Several advocates in Jacksonville agree that the city has become more hostile toward homeless individuals, especially in the beach areas. The City of Jacksonville recently passed an anti-homeless

According to the ordinance, homeless individuals must be offered drug, alcohol, or mental health treatment if an officer deems that the services are needed. In addition, police officers cannot enforce the ordinance if there are no shelter spaces. The ordinance is seldom enforced, but Jacksonville Police use trespassing, vagrancy, loitering, and resisting arrest without violence ordinances to arrest homeless individuals.

ordinance, though its use is very limited, says Stan Grenn of New Hope Ministries and Carl Falconer from the outreach team at Quest. Joe Nullet of the IM Sulzbacher Center for the Homeless states that the anti-homeless ordinance includes a ban on public sleeping and aggressive panhandling. Linda Lanier, the Executive Director of the IM Sulzbacher Center for the Homeless was on the committee that wrote the ordinance.

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The police stop homeless people, ask for their ID, and arrest them for resisting arrest “without violence” if they don’t have identification. Instead of performing sweeps of homeless individuals, Jacksonville Police Officers wait until everyone leaves a homeless campsite and call the city sanitation workers to come and throw away all of the homeless individuals’ belongings. The City of Jacksonville has also begun to cut down and remove trees and brushes where homeless individuals used to sleep in public parks. There is a “Riverfront Enhancement Area” in Jacksonville where any form of panhandling is illegal.

There is a weekly in-service training for Jacksonville Police Officers, which includes the history of homelessness in Jacksonville, and a description of mental health issues that many homeless individuals face, according to Nullet.

Carl Falconer reports several incidents of violence towards individuals experiencing homelessness. These incidents involve local teenagers beating up homeless

people. Treatment of homeless individuals is particularly hostile in the beach areas of Jacksonville. Jan Flager of Mission House says that in July of 1999, the City of Jacksonville Beach, lobbied by local business owners, passed an ordinance making it illegal to sleep, rest in public, and other life-sustaining conduct. The law was very strongly enforced for the first six months. The aggressive panhandling ordinance is still used to arrest anyone who asks for money more than once.

Littering, drinking in public, and trespassing are just a few of the ordinances used to arrest homeless individuals, who are searched as often as three or four times each day and then told to move along. Before every weekend event, there is a sweep made of the entire area, and everyone who can be arrested is arrested. Jacksonville Beach Police Officers commonly take or destroy homeless individuals' identification, making them susceptible to future arrest. Senior police officials told Jan Flager that "the police tell the truth, and the homeless lie" when he attempted to address some of these concerns. Police hostility often turns into brutality. One homeless man has this to say about one of his encounters with the police: "The policeman kept calling me Fester, Chester the Molester, and other names. When I complained to the sergeant, he did nothing. They had the cuffs on me so long and tight, I had to go to the clinic for treatment when I was released from jail."

Miami, Florida

According to local advocates, the City of Miami has altered its treatment of homeless individuals due to a settlement agreement from the *Pottinger v. City of Miami* case. Arthur Rosenberg of Florida Legal Services states that the lawsuit was brought to court to address the pattern of arrests for public urination, sleeping in public, public intoxication, and the lighting of fires in public, and to address the constant sweeps of homeless individuals from public parks during the late 1980's. The settlement of the suit, finalized in 1998, made it illegal to arrest individuals for performing life-sustaining functions. The local police are now required to offer shelter space and transportation to that space, and they are required to document each interaction with a homeless individual. If there is no shelter, police officers are not allowed to approach homeless individuals sleeping in public. However, the police are still able to arrest individuals if they choose not to accept shelter space.

Ray Taseff, a local lawyer, reports that there is still a high level of police misconduct in the way officers approach homeless individuals, and there have been a couple of new ordinances passed to target homeless and poor individuals. Dade County passed a new aggressive panhandling ordinance. However, the police seem unsure of the details of the ordinance and how it relates to the *Pottinger v. City of Miami* settlement, so they tend not to enforce it. In 1994 the City of Miami passed trespassing and loitering ordinances that made it illegal to solicit work. This law was targeted at day labor workers, and the police arrested 2-20 individuals at a time using undercover vans and asking for laborers. The ordinance was challenged in the *Torres v. City of Miami / Dade County* case in 1996.

Local attorney Benjamin Waxman, known for his work on the *Pottinger* case, reports a continuing trend of sweeps of homeless people. One such event occurred in mid-October, 2000, at Myer's Park in Coconut Grove. A group of homeless individuals were picked up for trespassing in a city park and were transported outside the city limits.

At the insistence of the local business community, the City of Miami attempted to strong-arm the ministries that were providing meals to homeless people in public places into reducing their meals to one day a week at the behest of the local business community. The Miami Police Department Monthly Homeless Report through August of 2000, furnished by attorney Benjamin Waxman and Yvonne Grasse of the Miami Coalition for the Homeless, shows that 8,274 homeless individuals were approached by officers since November of 1998. Of those individuals, 1,461 were arrested for "life sustaining functions," including camping in a park, un-intended use of facilities, and obstructing the sidewalk. 1,870 individuals accepted shelter in lieu of arrest, and 2,492 individuals were approached for reasons that did not even involve an arrest situation.

As a result of the *Pottinger v. Miami* case, the police department is performing training with officers to teach them how to interact with homeless individuals. However, the training is internal and there are no homeless advocates included in the training, although there is a group being assembled to review the training. The group does include some advocates. Arthur Rosenberg stated that the Hart Program has created a system that ties services for addicted homeless people and for services to homeless individuals with minor mental health issues to the court system. If homeless people come before the court, they may be sentenced to programs instead of to jail.

Ray Taseff is investigating an incident in which a homeless man died in police custody. Police used pepper spray to take a man into custody that they claim they saw with alcohol. The man was left in a holding cell for fifteen to twenty minutes, and when an officer came back, the man was dead. All information was withheld from the public for an extended period of time until the coroner made the statement that the man may have had a psychotic episode that led to cardiac arrest.

Other than the already-mentioned litigation, there are no cases being brought to court in Miami challenging anti-homeless laws or policies.

Palm Beach County, Florida

(The Editors would like to note that, although Palm Beach County is not a City, it was included within this portion of the report because of its glaring relevance. The information from Palm Beach County is evidence of the trend of considering homeless individuals to be criminals simply because of their economic status.

The Palm Beach County Sheriff's Office has developed a database of homeless individuals and prostitutes, according to a news release circulated by the Palm Beach County Sheriff's Department. The database will be used "to identify deceased and missing individuals as well as to develop a list of suspects." The databases include typical F.I.R. (Field Interrogation Report) information in addition to the next of kin, previous medical treatment (to include broken bones), tattoos, photographs of tattoos and the last place the individuals received dental treatment. The databases have been made

accessible on the internet, and all law enforcement agencies have been encouraged to use the databases.

Athens, Georgia

Lynne Griever of the Georgia Task Force for the Homeless (a statewide initiative of the Metro Atlanta Task Force for the Homeless) and the Redistribution Alternative in Athens states that aggressive panhandling ordinances are used to keep storefronts clear of unwanted people. Officers offer one warning, bar individuals from the area in front of the store, and then arrest individuals for trespassing if there is a second offense. There is also a loitering ordinance that is used to move along and sometimes arrest homeless individuals, usually when the individuals become excessively “bothersome,” she says. These ordinances are generally enforced only when police receive complaints from business owners or private citizens, and the religious community of Athens is very watchful of harassment of homeless individuals. Police officers in downtown Athens use a profiling system to stop and search people at will, especially in downtown parks and

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gathering areas. Young people are most often the target of these arbitrary searches.

An Athens-Clarke County police officer performed a sweep of six homeless men in September of 1999, immediately before a sporting event that would bring visitors from out of town as well as festivities for students of the University of Georgia and

residents of the downtown Athens area. A “Good Behavior Warrant” was used to jail the men without an initial hearing and ban them from downtown Athens. There was a public outcry from the strong religious community in Athens, and an attorney from the University of Georgia Legal Clinic called for an immediate hearing before the Clarke County Superior Court. The ruling in the *Blount v. Massey* case found the use of the good behavior warrants unfounded. During the hearing, it was discovered that the officer involved had performed the sweep without backing from the Athen-Clarke County Police Department. At certain city meetings the police force had been suggesting a crackdown on vagrants, banning them from downtown Athens at certain city meetings, but the ruling on the case and the public outcry have put an end to the discussion about such downtown bans on vagrants.

Atlanta, Georgia

The City of Atlanta continues to treat its homeless people as criminals. Ordinances designed to criminalize life-sustaining activities of homeless people are constantly enforced and have been dramatically expanded since the 1991 announcement of the successful Olympic bid. Public urination/defecation, sleeping in public for an extended period of time, improper use of parks after hours, and loitering ordinances are just a few of the “quality of life” charges used by police to take homeless individuals off the streets and put them into jails. A report from the city in September 1999 claims 18,000 - 19,000 “quality of life” offenders annually.

For more than a decade, the Metro Atlanta Task Force for the Homeless has documented harassment and arrests without probable cause. That documentation, which

led to the 1996 federal lawsuit and subsequent 1998 settlement agreement, continues with substantial ongoing evidence that the city is in gross violation of that settlement agreement. The *Atchinson v. City of Atlanta* case settlement has not ended police harassment of homeless individuals. Some of the terms of the settlement require that the city “cease and desist” arresting without probable cause, that the city train police recruits and provide roll-call training, provided in part by the Task Force.

Every homeless individual arrested is required to be given an opportunity to call the Task Force for assistance and for documentation of the case. Instead of complying with the terms of the settlement agreement, the Atlanta Police Department has become more creative in its selection of charges. Homeless people are now arrested for criminal trespassing, pedestrian soliciting a ride or business, and various disorderly conduct ordinances including blocking a public way as well as for “quality of life” ordinances. Individuals are lured into unmarked police cars with the offer of a chance to make money

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and are driven to a parking lot where officers wait to arrest them for idling and loitering or for soliciting sex. The police actually conduct regular “sting operations” in order to entrap homeless people, who are stopped and searched without cause on a regular basis. During these searches, background checks for outstanding warrants are run on each individual stopped.

One homeless man describes such an incident: “A police officer drove up to me while I was using a pay phone. He asked me if I was Sam Smith. I told him that I was not, so the officer asked for my ID. I showed it to him, and he ran a background check before he let me go.” The practice of stopping and searching without cause is the means for finding misdemeanants with outstanding warrants and arresting them.

Incarcerated homeless individuals confirm that APD officers conduct systematic sweeps of homeless people near housing projects and in parks as often as twice a week. The sweeps are intensified immediately before major events and conventions in Atlanta. One homeless man was arrested for public urination the day of the second major league playoff baseball game. The officer told the man that the order had come from City Hall East to arrest anyone carrying a bag or who looked homeless. The public official who issued the order told the officer that if homeless individuals were arrested and harassed enough, maybe they would leave town.

The Business Improvement Districts in Atlanta are hotbeds for police harassment and street sweeps. The Center at Peachtree and Pine Street, a building under development for the Task Force for the Homeless as a Downtown Resource Center, is located within one of these districts. Several Atlanta City Council Members, backed by local business leaders, have done everything in their power to block the development of the much-needed homeless services center. Atlanta business owners in the area of Atlanta known as “midtown” have gone to the extreme measure of hiring a private police force known as the Midtown Blue.

The Atlanta chapter of the ACLU filed a lawsuit that challenged and eventually repealed an ordinance that required street musicians to get a permit and barred them from

playing in many areas. Groundwork is also being laid for several legal challenges to anti-homeless laws and policies. These lawsuits will focus on the public urination/defecation and extended public sleeping ordinances, the APD officers' practice of discarding homeless individuals' personal property and ID, and the APD's non-compliance with the settlement of the *Atchinson v. City of Atlanta* case.

The Task Force documented 111 arrests for public urination (there are NO public toilets in Atlanta) between October 23, 2000 and March 31, 2001. The private foundation community, funded largely by the downtown businesses, has funded Atlanta's drug court and a community court. The drug court sentences homeless individuals arrested for possession charges to drug treatment programs instead of jail. The community court sentences homeless individuals to community service through a shelter facility when they cannot pay the fines they are given for arrests for "quality of life" ordinance violations. The difficulty in this "alternative" sentencing is that services are being diverted to people whose very service needs have become the target of criminalization ordinances. In other words, the community court is becoming the general "intake and referral" system for poor and homeless people who need mental health care and substance abuse treatment.

Valdosta, Georgia

Laurel Hahlen of the South Central Georgia Task Force for the Homeless states that Valdosta's treatment of homeless individuals has not changed much over the last two years. The city has passed an anti-loitering law, but the police do not seem to be enforcing it very strictly. There is also a current proposal for an anti-panhandling

ordinance. The ordinance would prohibit standing in a public right of way for the purpose of soliciting employment, business, contributions, charity, or for handing out political literature or handbills to the occupant of any vehicle.

Many of the homeless individuals in Valdosta have formed encampments in the woods just outside of town. For years the police have entered the encampments during the night, shining flashlights, waking people up, and ordering them to move along.

Drug laws may have been used to put a homeless man behind bars. The man, who had lived openly on a street corner near downtown for years, disappeared after someone complained about him and the lack of vagrancy enforcement in a column in the local newspaper. Local authorities told Laurel Hahlen that the man had been arrested during a drug sting operation. A Valdosta police official said he had not seen prior indication of the man having a drug problem and had often looked out for the man's well being.

Honolulu, Hawaii

The City of Honolulu's treatment of homeless people is one area where Hawaii's tourism industry collides with the traditional "Aloha" hospitality of Native Hawaiians. For years, people who hit hard times slept along the beaches and in public parks. Local housed Hawaiians are considerate of homeless people's having to live in public places. Kathleen Hasegawa of Honolulu's Affordable Housing Alliance often hears people say, "Oh, they're just down on their luck."

However, the Mayor of Honolulu and some business owners do not feel the same way about the presence of homeless people. Although too few shelter spaces exist for everyone who is homeless, it is now illegal to sleep on the beach. Hasegawa says that

police cite homeless people for sleeping, but usually do not cite tourists. After three citations of any kind, a homeless person risks being sent to jail, although a judge usually dismisses charges if the person appears in court. In addition, the City Council of Honolulu attempted to pass an anti-camping ordinance in March of 2001, according to one Associated Press news report. The ordinance was put together in response to the upcoming Asian Development Bank meetings in May and as a tool that police could use to handle potential protestors of the event. The measure defines camping as, “sleeping or preparing to sleep; storing personal belongings; making a fire; digging into the ground or cooking.” The ordinance would allow arrest for such actions, and it would allow Police to use dogs and mounted police within park areas to enforce the ordinance. Homeless advocates feared that the ordinance would be used to target homeless individuals, and may lead to serious injuries. The vote on the ordinance was tabled, according to an AP release on March 29.

Hasegawa and Laura Theilen of Health Care for the Homeless agree that Mayor Jeremy Harris of Honolulu desperately wants to move homeless people out of the city. To that end he proposed legislation making it illegal to sleep on benches. When that legislation was defeated, he ordered city benches redesigned with a bar in the middle of each bench. He ordered the renovation of A’ala Park, where homeless people slept, and turned it into a “family park,” complete with tennis courts and a “no homeless people allowed” policy. According to Theilen, Mayor Harris also tried for several years to use Community Development Block Grant (CDBG) funds to build a shelter outside of town, away from existing services. Homeless advocates have made concerted efforts to keep this from happening. In retaliation, Harris has refused to sign the lease for a homeless

services building located close to downtown. The city's attempts to reduce the visibility of homeless people also included closing portions of the airport, noted Theilen and Hasegawa. In July of 1999, the Honolulu International Airport cordoned off airport sections where homeless people had been sleeping to prevent homeless people's presence at the airport. More than 50 homeless individuals, mostly mentally ill, were displaced.

When Mayor Harris talks about homeless people, he frequently uses the word "criminal" in the same sentence. He has sponsored two "weed and seed" programs in Honolulu, where police officers arrest or clear homeless people out of a certain area. Health Care for the Homeless, a program that assists homeless people with mental illnesses, is trying to work with the police on prevention and community education to replace the "weed and seed" approach. Recently, individual police officers associated with the weed and seed program have been willing to work with service providers to find solutions instead of putting homeless people in jail, states Theilen.

Advocates in Honolulu feel violent attacks on homeless individuals occur in spurts. Fall, 2000 was a violent time. In October, 2000, a homeless man was set on fire and burned to death, and in early November, a homeless man was viciously stabbed. According to Hasegawa and Theilen, there was no known motive for either crime.

Theilen notes that the Health Care for the Homeless Project collaborates with Mental Help Hawaii on a project called Safe Haven, a transitional shelter that houses 25 homeless individuals who suffer from severe mental illness. Since Safe Haven's opening five years ago, 70 people have moved from the streets to independent living. Honolulu agencies are lobbying the state legislature this year for additional funding to create more

Safe Havens. This move is particularly important because the City's Community Mental Health Centers do not have the capacity to treat all the people who are mentally ill.

When Mayor Harris talks about homeless people, he frequently uses the word "criminal" in the same sentence.

Chicago, Illinois

In Chicago, the police have been more aggressive in targeting homeless persons and charging them with crimes, states Rene Heybach of the Chicago Coalition for the Homeless. The police are using old, vague ordinances and charging people with vagrancy, begging, loitering, etc. Many are ticketed, arrested, detained and often not prosecuted. In March, the police partnered with the transit authority and the city to announce an express policy of identifying homeless people and getting them off the CTA (Chicago Transit Authority). Shortly thereafter, a policeman shot and killed a man who was homeless as he was leaving the CTA station. The officer claimed that the man lunged at him with a fork.

The City has also closed and even destroyed many transient hotels as part of conscious gentrification plans to recreate neighborhoods. Rene Heybach notes that there are several laws that target homeless individuals. There is a "Junking Without a License" ordinance and a myriad of park district offenses. Schools in the surrounding suburbs are ejecting or refusing to enroll homeless children. This practice violates Illinois law, and a subsequent lawsuit has forced the Chicago Public Schools to stop excluding homeless students from schools.

Sweeps of homeless individuals are conducted whenever there are major events in the downtown area. Additionally, there are constant harassment and threats aimed at homeless individuals by police officers in the Business Improvement Districts.

Samir Goswami of the Chicago Coalition for the Homeless writes that advocates and service providers are seeing an increasing link between homelessness and prostitution. 50,000 people are prostituted in the City of Chicago at any given time, almost all of whom are homeless. Women and youth should not be criminalized for being forced into prostitution. For women and youth, prostitution should be regarded as a system of violence, not a lifestyle option. The focus of law enforcement should be to increase the arrests of pimps, johns and organized networks that profit from the trafficking of women and youth, says Mr. Goswami.

Rene Heybach states that there have been several instances of violence against homeless individuals. The police killed Arthur Hutchinson as he left the CTA station. The police have been known to push, strike and use racial epithets when interacting with homeless individuals. One homeless man was set on fire in a city park, and several homeless people were beaten by a group of "white supremacists."

Indianapolis, Indiana

Patrick Taylor of the Indiana Coalition on Housing and Homeless Issues notes some alarming trends in Indianapolis' homelessness policy in the recent past. Indianapolis has passed an anti-panhandling ordinance for certain downtown areas. Six years ago, the City barred homeless individuals from voting, but advocates were later successful in convincing the State to pass a law giving homeless people the unqualified

right to vote. One downtown shelter in Indianapolis requires all of its guests to remove their clothing and wear orange jump suits upon entrance to the facility.

Jeffersonville, Indiana

Barbara Anderson of Haven House Services and Patrick Taylor of the Indiana Coalition on Housing and Homeless Issues agree that Jeffersonville's treatment of individuals experiencing homelessness changed dramatically over the past two years. After four years of NIMBY (Not In My Back Yard) attitudes on a local and state level, the public began to come out in support of services for individuals experiencing homelessness. The Mayor of Jeffersonville, Tom Galigan, also fought against several ordinances that the City Council attempted to push through that would have infringed upon homeless individual's civil rights.

Attempts to pass new anti-homeless ordinances in Jeffersonville have been quashed by the Mayor of Jeffersonville, and an effective media campaign rallied the general public to the support of individuals experiencing homelessness. Mayor Tom Galigan's efforts to stop these ordinances garnered him threats from the City Council that he would be voted out of office. Similar threats were also voiced by members of the general public three years ago at a public hearing. Galigan responded to the threats by stating, "If you represent 51% of the voters, I don't want to be your mayor." The earnestness of Galigan's support for homeless services and individuals, coupled with a massive public education campaign changed public opinion concerning homelessness. The swelling of public support, and the tireless work of Haven House Services has prevented City Council from passing new anti-homeless ordinances. City Council

Members recently attempted to pass an ordinance that would prevented the locating of youth shelters, homeless shelters, soup kitchens and the like within one half mile of each other. After a year of publicity and rallying of community support, the ordinance was stricken. With community and mayoral support, an ordinance banning sleeping in public parks after 7:00 p.m. was also stricken from the City Code.

Although no new anti-homeless ordinances have been passed, Barbara Anderson notes that homeless individuals are facing a direct affront to their civil rights from the jail system. Individuals who do not have a definite residence to go are refused release from the local county jail. If the shelters are full, those people are denied release.

Anderson states that successful grassroots organizing has been the key to the change in treatment of individuals experiencing homelessness. Local media, churches and students helped educate the public as to the realities of homelessness, and the profound effect that proposed ordinances would have had upon individuals experiencing homelessness. Public education has been extended to include police training on the issue

During 2000, nine homeless individuals died either from natural causes or accidents. In September, 1999, a formerly homeless family was murdered. The mother, father and four month-old child died when the Section 8 housing that Haven House Services assisted them to obtain was firebombed by a group of teenagers.

of homelessness over the past two years.

Despite important strides in public education and support, Jeffersonville's

homeless community reports serious gaps in services needed. There are only 200 residential units available at Life Springs Community Mental Health Center for individuals with mental illnesses, yet approximately 15% of the local homeless

population is chronically mentally ill. Jeffersonville has few substance abuse shelter spaces and only one halfway house.

Jeffersonville's homeless and homeless service provider communities experienced tragedy over the past two years. During 2000, nine homeless individuals died either from natural causes or accidents. In September, 1999, a formerly homeless family was murdered. The mother, father and four month-old child died when the Section 8 housing that Haven House Services assisted them to obtain was firebombed by a group of teenagers. The property stood adjacent to the Haven House Services building. Anderson says that the firebomb was intended to frighten away Haven House Services. During the subsequent trial, one of the accused teens referred to the incident as a "marshmallow roast." This incident highlights a growing national trend of hate crimes perpetrated against individuals experiencing homelessness.

Covington, Kentucky

In the past five years, Covington has experienced a tremendous growth in economic development. Covington has formed many partnerships to push the priorities of big business, says the Northern Kentucky Homeless and Housing Coalition. Little attention has been given to housing, and any effort to develop housing is focused on upper-income housing. As a result of the city's marketing itself to businesses, homeless people have been seen as an "eye sore" and as having a negative impact on development. The Northern Kentucky Coalition has seen the city adopt policies to try to push homeless individuals elsewhere. The city's policies fail to address the needs of the very poor, such as affordable housing, support services, shelters, etc.

There are no known anti-homeless laws that are targeted strictly towards homeless individuals. Disturbing the peace, disorderly conduct and alcohol intoxication are the laws usually used to arrest homeless individuals. Homeless people have been arrested for sitting, drinking and sleeping in public areas, despite the fact that there are not alternatives for homeless individuals in Covington.

The Northern Kentucky Homeless and Housing Coalition recently began police sensitivity training in an effort to educate police about the issues surrounding homelessness and to put a human face on homelessness. The training is mandatory for every police officer.

Homeless people are asked to leave the library on occasion. The reasons they are asked to leave include staring at another patron, rolling a cigarette (not smoking it), using the computers too much and lack of personal hygiene. Recently, there have been objections to homeless people using one of the Covington City Parks.

Violence towards homeless individuals occurs often in Covington. Almost every week, Northern Kentucky Coalition for the Homeless staff run into individuals who have been hurt in some way. Stories of teenagers beating homeless people with bats or bricks, police officers shoving a person's face into the sidewalk during an arrest, and people setting homeless individuals' camps on fire are not rare. Most of these incidents go unreported. The Coalition is hoping that police sensitivity training will make reporting easier for victims of these hate crimes.

Louisville, Kentucky

Barbara Anderson of Haven House Services in Jeffersonville, Indiana, (right across the Ohio River from Louisville) reports some information from Louisville about a concerted effort to decentralize homeless service providers. The City of Louisville is attempting to move service providers out of central locations and relocate them to the suburbs. Additionally, individuals are told that they must remain inside shelters once they have signed in for the evening. This policy is enforced by police and shelter security.

Four years ago in Louisville, a homeless man fell asleep outside a local emergency room that treats homeless individuals. Some doctors and nurses decided to write “Do Not Resuscitate” on the man’s forehead. The hospital was reprimanded by city officials.

New Orleans, Louisiana

According to advocates in New Orleans, homeless persons on the street are still subject to random arrest. R. Judson Mitchell, Jr., a staff attorney at the Loyola Law Clinic of New Orleans, reports that police officers in New Orleans continue to receive instructions to arrest homeless or “vagrant-looking” people on sight. Vicki Judice of UNITY for the Homeless adds that enforcement efforts are heightened before Mardi Gras, Sugar Bowl, Jazz Fest and other major tourist events.

Judice and Mitchell both cite “disturbing the peace,” “obstruction of public places,” “public drunkenness,” “unauthorized public habitation,” and “criminal trespass” as the most common charges used against homeless people. According to the

Loyola Law Clinic, the governmental agency that prosecutes city misdemeanors, New Orleans City Attorney's Office, generally declines to prosecute these offenses. However, because of inability to make bond and/or lack of legal assistance, individuals experiencing homelessness generally serve anywhere from 14-60 days in jail on such charges, says Mitchell. Because of this reluctance to prosecute misdemeanors, the charge doesn't matter, because the arrest will never be subject to a hearing or trial. Thus, in many cases, the facts of the arrest never emerge.

In one instance, a 60-year-old homeless man was arrested for obstructing a public place when he sat down to tie his shoelaces one morning on a very wide sidewalk under a highway overpass. In another instance, a homeless man in his twenties was sitting, with his duffel bag beside him, in a public park after having spent the previous night sleeping in a shelter. The man was arrested for public habitation, according to Judice. Both of the men are mentally ill and were severely traumatized by being imprisoned for the first time in their lives and denied their psychiatric medication.

Portland, Maine

City officials in Portland generally have a "hands-off policy" when it comes to the presence of homeless persons on city streets, but that policy is coming under review following the well-publicized deaths of two homeless men in October 2000.

Legal Advisor for the Portland Police Department, Beth Poliquin, reports that Portland does prohibit aggressive panhandling and camping on public streets. However, Portland advocates agree that the only time police intervene to enforce these ordinances is to ask a panhandler to move on to another place if there is a complaint that a store or

residence is being blocked. The Portland Police Department reports that it issued no summons for aggressive panhandling during the past 12 months. A full time mental health worker who accompanies police officers responding to calls that may involve emotionally disturbed persons supports the efforts of the Portland Police Department.

Police routinely move campgrounds set up by homeless people if the camps are obvious or trigger neighborhood complaints, said Poliquin. The campers are subject to background checks if they are approached by police to move their belongings. The homeless persons approached by the police must set up camp elsewhere, unless they have an outstanding warrant that leads to their arrest. As a result, homeless people sleeping outside in Portland generally stay out of sight.

While police enforcement is rare, advocates fear that practice may soon change. The severe lack of affordable housing, safe shelter and substance abuse services in Portland creates an acute emergency on Portland streets heading into the winter of 2001-2002. The police department's Ms. Poliquin agrees with advocates who claim that officers have insufficient placements for people who are publicly intoxicated and, with respect to the State's Department of Mental Health, says it is "doing a lousy job."

One man was killed when fire swept through his camp hidden in a field within two blocks of Portland's wealthiest residential neighborhood. The police deemed his death accidental.

The one municipal shelter for homeless adults in Portland is so crowded that shelter staff no longer have the room to put up cots for over-night stays, notes David Beseda, Executive Director of Community Housing of Maine. Shelter crowding worsens as the weather turns colder, leaving more people on the streets. Advocates worry

annually that the crisis will increase police enforcement activities. Recently, the police have come under public criticism for doing too little to assist homeless people. In October, 2000, two homeless men died while sleeping out in Portland. One man was killed when fire swept through his camp hidden in a field within two blocks of Portland's wealthiest residential neighborhood. The police deemed his death accidental. Another homeless man, aged 46, died in Portland's centrally located Deering Oaks Park after police moved the man from the park's rose garden (which was being sprayed) to another spot in the park. The Police Department has launched an internal investigation into the failure of the police officers to seek assistance for the man.

Baltimore, Maryland

Homelessness is currently criminalized in the city of Baltimore. Homeless people are most often arrested for aggressive panhandling, public intoxication, disorderly conduct and loitering. Sharon Cole of the Maryland Office of the Public Defender says that loitering arrests are the biggest problem for homeless people. Aggressive panhandling arrests are most common in tourist areas. If a crowd of homeless people congregates in a public area, police will ask them to "move along," says George Siletti of Creative Alternatives.

A large problem in Baltimore is the large number of arrests for failure to present identification when stopped by the police. Homeless people are held in jail until they receive a court date and can be provided counsel. Rob Hess, former President and CEO of the Center for Poverty Solutions says that homeless people spend an average of 35 days in jail as a result of minor offenses.

At the end of the summer of 2000, the city of Baltimore created early disposition courts to offer plea-bargains for minor crimes. Rob Hess and some other advocates fear that these will have a negative impact by leading to more arrests of homeless people for minor offenses.

The biggest change in the city of Baltimore's strategy for dealing with homelessness in the past two years was the creation of the Mayor's Task Force for the Homeless in September of 1999. Hess says that the Task Force was formed in response to the desire of members of the business community to relocate a soup kitchen, Our Daily Bread, out of the downtown areas because it was "unsightly." The Task Force discussed the issues of housing, income, and criminalization, and included leaders from the business community, non-profits, foundations and service providers. Advocates for the homeless saw the Task Force as a positive step in that it brought together many different constituencies from the community to discuss the problem of homelessness in Baltimore. The result was that many began to think more deeply and creatively about the issues than they had done previously.

In March, 2000, the Center for Poverty Solutions published a report that included recommendations from the Public Policy Sub-Committee of the Baltimore City Task Force for the Homeless dealing specifically with de-criminalization. All members of the Task Force endorsed the committee's recommendations. One of the recommendations is to incorporate into police training a requirement to contact social service outreach teams prior to arrest so that the outreach teams can address the needs of the homeless individuals committing a "nuisance crime."

A second recommendation is to amend city law to give police officers the option of charging individuals committing “nuisance crimes” with a civil violation in order to avoid giving them a criminal record. Criminal records often prove to be significant barriers to housing and employment, and this new policy could prevent that.

The Public Policy Sub-Committee recommends that policies and procedural opportunities be created within the legal system for alternatives to prosecution and conviction for people arrested and deemed to be in need of social service support. In spite of the obvious fact that these policies and procedures will also help homeless people avoid the barriers caused by criminal convictions, the question must be asked steadily, “Why arrest them in the first place?”

A fourth recommendation endorsed by the Task Force is to support efforts by the Coordinating Council on Criminal Justice to expand the number of prosecutors at the Central Booking and Intake Facility who review cases and charge those who are arrested.

The Task Force calls for funding of legal representation for all indigent people at bail review hearings at the City level and support for similar statewide measures. This suggestion could help prevent people from needlessly spending time in jail and potentially losing their employment and/or housing.

The sixth recommendation of the Public Policy Sub-Committee of the Task Force is to ensure essential services, and to support existing day resource centers, sufficient outreach teams, transportation, health care, quality childcare, affordable housing, addiction treatment services, and other supports. They also call for the family supports necessary for sustaining employment to be increased to meet the need. Finally, it is recommended that the impact of the Community Court on people who are homeless be

monitored and to ensure that the Community Court links with the Community Day Resource Center.

Peter Sabonis, Executive Director of Homeless Persons Representation Project, notes that many homeless advocates saw the recommendations of the Public Policy Subcommittee of the Task Force as a promising step toward the decriminalization of homelessness in Baltimore. However, he also notes that little action has been taken to implement the changes since the inauguration of the new mayor in January, 2001. The new mayor has a “Zero Tolerance” crime policy, which Sabonis and many advocates fear will lead to more arrests of homeless people and an increase in the criminalization of homelessness.

According to Leslie Leitch of the Office of Homeless Services, the mayor does not feel that dealing with homelessness is a governmental responsibility and “everything is still moving forward.” The mayor supports most of the Task Force’s recommendations, although he has not yet made an announcement detailing what steps he will take to implement them.

Baltimore advocates for homeless people seem both optimistic about the Task Force recommendations and discouraged by the lack of progress since the release of Task Force report. Much remains to be determined over the course of the next few years as the new mayor works with the community to combat the problem of homelessness.

Detroit, Michigan

Local advocates agree that the City of Detroit has remained actively involved with the homeless population. The past two years have demonstrated the need to increase services due to unusually cold and snowy winters. Arthur Nowlin, M.S.W. and Executive Director of Treatment Programs at the Detroit Rescue Mission Ministries, stated in an interview that there has been a rapid increase in families needing shelter. “We have been at full capacity since the change in the weather. We believe that this increase is due to the increase in the number of mothers with children needing to come in out of the cold,” said Nowlin. According to activists, all area shelters are full. During warmer months, these same families are better tolerated by relatives or stay in abandoned buildings.

In the past, homeless individuals have been known to stay at a Bell Isle Park. Due to the city’s desire to clean up the “view” and its image, stronger security has led to homeless individuals being run out of that park. Although there is no documentation of such events, homeless individuals regularly report the information to service providers.

Pontiac, Michigan

According to information included in an Associated Press release and a news release from The Homeless People’s Network on March 2, 2001, an emergency shelter was raided by Pontiac Police Department Officers. Police arrested 32 individuals, most of them for outstanding misdemeanor warrants. Eight days later, city fire and building inspection officials made a surprise visit to the shelter. All of these actions came on the heels of the announcement of plans to develop downtown Pontiac where the shelter is located. The shelter has managed to stay open on a month-to-month basis through help

from other local service providers. The shelter provides a place to sleep for 70 men and women each night. Reverend Kent Clark had this to say about the possible impact that the city's new policies could have: "If we had to close it, the other agencies would do their best to pick it

up. It would be devastating.

There's no one agency in this county that could immediately do what we're doing."



Las Vegas,

Nevada

Las Vegas has seen the murder of five homeless individuals since December 27, 2000, according to a story by Keith Paul of the Las Vegas Sun. The story, published on May 24, 2001, gives some detail of four of the five murders. The most recent involved a fight between a homeless woman and a man who is allegedly homeless. The man tried to take the woman's blanket. When she resisted, he punched her and she fell down, hitting her head on a wall. She died later that night at a hospital. In another instance, a homeless man set another homeless man on fire. The other two cases involved a familiar and deadly scenario to many advocates for individuals experiencing homelessness. Both cases involved a group of four or five teenage males attacking an older homeless man

without any warning. On April 1, a homeless man was found beaten to death in a deserted area. On December 27, a 72 year-old man was beaten by a group of young teenagers. He died on March 10, 2001, in a rehabilitation hospital from complications caused by the beating.

Reno, Nevada

An out-of-sight, out-of-mind attitude toward homeless people prevails in Reno. In the past, the City has implemented few if any programs to address the problem of homelessness. One new “solution” is to place homeless men at an out-of-the-way site next to a garbage landfill and a railroad station.

“River Patrol” law enforcement officers regularly perform sweeps near the city’s main river. These sweeps include removing and arresting homeless people who will not leave the area. Laws prohibiting camping, sleeping in the parks or near the river and panhandling laws are strictly enforced in Reno. Reno police, as part of the “H.E.L.P.” program, also give homeless people one-way bus tickets out-of-town, so-called “Greyhound therapy,” to decrease the visibility of homeless people in the city.

Homelessness is further criminalized in downtown Reno in an attempt to keep homeless people out. Reno police regularly patrol downtown and use jaywalking and trespassing laws against homeless people. Some service providers believe that recently created drug-free zones were created to keep homeless people away. Homeless people with mental health illnesses have been targeted for arrest downtown. Sweeps are conducted downtown before events and homeless people are told to leave or risk arrest.

Reno lacks adequate emergency shelter, transitional housing, low-income housing and substance abuse treatment facilities. Homeless people with mental illnesses or substance abuse issues are very often not eligible for Reno's permanent low-income housing. Reno's existing shelters are not set up to deal with medical requirements of people living with such illnesses. Shelters are religious and mandate participation in religious services. This practice also keeps people with mental illnesses from accessing shelters.

The editors would like to note that the political climate in Reno is so anti-homeless that the advocates who provided the above information have requested that their names be left out of the report. The political and funding ramifications of speaking out against the City's policies concerning homelessness are serious enough to prevent some individuals from speaking against the policies and to require anonymity for those willing to speak.

Albuquerque, New Mexico

Jenny Metzler of Health Care for the Homeless states that Albuquerque, New Mexico is no different from many other downtown areas across the nation. It is in the midst of aggressive downtown redevelopment and claims no positive plan for the homeless community. Instead of finding solutions to the homeless crisis in New Mexico, the City has chosen to follow the widespread practice of criminalizing homelessness.

The City passed anti-panhandling and anti-sleeping ordinances which are aggressively enforced, especially in downtown areas. The police consistently move homeless people out of the downtown area where most of the social services are located,

so the policy of moving homeless people from the area effectively denies them access to the services that they need.

New York, New York

Advocates for homeless people in New York agree that the city has become negligent in its duties to assist homeless individuals and aggressive in its attempt to criminalize homelessness. Advocates also agree that Mayor Giuliani is the leading force behind New York's harsh treatment of homeless individuals and families. Anthony Williams of Picture the Homeless notes that Giuliani has called for renewed zeal in enforcement of "quality of life" ordinances (i.e., no sleeping in public parks, no sitting on the sidewalk, no public urination). Armen Merjian of Housing Works refers to this policy as Giuliani's "Zero-Tolerance" policy towards homelessness. Jennifer Flynn of the New York City AIDS Housing Network reports that Giuliani endorses the policy of arresting individuals in order to force them into medical, mental health, and addiction treatment. Lynn Lewis of Picture the Homeless charges that, to Giuliani, "Selling New York is selling out homeless, poor and working class citizens." As tourism increases and more wealth moves into New York City, individuals experiencing homelessness are being forced out of certain areas and into local jails.

The city also has refused to admit to the scope of homelessness. Williams notes that he is fighting with the Department of Homeless Services to get the individuals who stay on the streets and not within the city's homeless services system counted in the city's census data. The city's negligence in addressing homelessness has led to an increase in

the numbers, and the city's response to the increase in homelessness has been to criminalize those people experiencing it.

Advocates agree that housing costs are continuing to escalate in New York, and affordable housing is disappearing rapidly. Flynn says that despite skyrocketing housing prices, the number of subsidized units has remained stagnant. Qualified individuals with AIDS can receive up to \$480 a month in housing subsidies, and qualified individuals without AIDS can receive up to \$215 a month. The FMR (Fair Market Rent) for an efficiency apartment in the city is \$830 a month, and most landlords charge well above

"The police have been waking up homeless individuals in Thompkins Square in the East Village. Homeless people were told that they had to leave while other people sunbathed in the park."

- Lynn Lewis, Picture the Homeless

the FMR. One bedroom apartments are commonly renting for \$1,000- 1,500 per month in all five boroughs. Landlords are opting out of Section 8 in many neighborhoods because they can get three times as much rent on the private market, according to Lewis. Flynn notes that non-profits that choose to build affordable housing

face increased costs and numerous delays in the application process for city permits.

Lewis notes that the city is backing out of its historical supports of homeless individuals by attempting to dismantle NYC's right to shelter policy. Earlier this year the Commissioner of Homeless Services was quoted in the NY Times that he "could not screw the doors any tighter to the shelter system." Merjian mentions that the city is one of the largest landowners in New York with countless vacant lots and abandoned buildings. Flynn notes that the city has stopped its policy of selling abandoned

buildings to non-profits for the creation of service centers and emergency and permanent housing. Giuliani has made millions of dollars for the city by selling the buildings for private development.

At the same time, New York will lose \$9.7 million dollars in money for AIDS housing and rent subsidies for individuals experiencing homelessness with AIDS because it was not spent. Merjian speaks with city officials who confirm that the city budget boasts a significant surplus, and yet no significant new affordable housing is built. The only access point for families to the shelter system is the Emergency Assistance Unit in the Bronx. The Emergency Assistance Unit was created to insure the legal right to housing for homeless families who often sleep hundreds of families on the floor in offices or old warehouses because there is not enough shelter to place them into. City housing policies exclude active users from any kind of housing program, according to Williams. The city and Giuliani have attempted to define shelter for homeless individuals and emergency housing for homeless individuals with AIDS as benefits, just like food stamps, rather than as rights, according to Lewis and Flynn. Accordingly, the City has tried to force homeless individuals with AIDS into workfare programs, and Giuliani has attempted to make employment a condition for acceptance into emergency shelters. Giuliani even attempted to vote in mandatory charges for admission to all shelters, but the policy was voted down.

The city's response to the increasing numbers of homeless individuals is to criminalize homelessness. As wealth and tourism move into many areas, homeless individuals are systematically moved out. Williams notes that gentrified areas are pushing service providers as well as homeless individuals out. Community boards have

begun to threaten the closing of soup kitchens in these areas. In Midtown, corporations have already succeeded in their push to close a soup kitchen that once provided daily meals and a drop in center for runaway youth.

Police officers in New York City can always find a reason to arrest and harass homeless individuals, as well as an ordinance to justify their actions, according to Doug Lasdon, Executive Director of the Urban Justice Center. Individuals are arrested for loitering, panhandling, having no identification if they are stopped, sleeping on park benches, and drinking in public. The City has created drug-free zones near local schools, and the mandatory minimum sentences for drug use are extremely tough, according to Flynn. Merjian recalls Giuliani ordering stepped-up enforcement of the jaywalking ordinance one year ago, and Williams notes that the ordinance is being strictly enforced in many areas of town. Flynn states that there is even an ordinance that prevents individuals from cleaning car windshields and windows. Flynn goes on to say that homeless people often spend up to one week at Riker's Island simply for jumping a turnstile. Lasdon adds "disturbing the peace" to the list of ordinances used to arrest and harass individuals experiencing homelessness.

New York City Police Officers and contract officers (i.e. security guards, park police, subway officers) use "quality of life," drug, jaywalking, and other ordinances in an attempt to move homeless people out of certain areas of town. These sweeps target homeless individuals specifically. Lewis states that police allow housed individuals to do what homeless individuals are arrested or moved along for: "For example, the police have been waking up homeless individuals in Thompkins Square in the East Village. Homeless people were told that they had to leave while other people sunbathed in the

park.” Williams notes that sweeps of New York City streets and parks occur up to three times a week in certain areas. He and Flynn both mention “Operation Condor,” a law enforcement unit that conducts random street sweeps and sting operations targeting mostly homeless individuals. Flynn notes that most individuals arrested by “Operation Condor” officers are processed quickly, and most plead guilty in order to get community service sentences instead of jail time. Williams goes on to say that homeless individuals that are arrested for violations of “quality of life” ordinances are often assessed \$90 fines. If the fines are not paid within 30 days, a warrant is issued for their arrest. According to Patrick Markee of the Coalition for the Homeless in New York City, the city reports that 1,701 homeless individuals were arrested and 573 were ticketed between November 1999 and February 2001 by “Operation Condor” officers. Markee and other advocates call these numbers “rather conservative.”

Street sweeps most often occur in wealthy neighborhoods and tourist areas, according to Lewis. Flynn, Lewis and Williams all note that homeless individuals are constantly harassed and arrested in the 34th and 42nd Street Business Improvement Districts. Flynn experienced the “no sitting” policy in Penn Station herself when she was told that she could not sit and wait for her train. Most advocates agree that street sweeps are often stepped up whenever there is a special event in the city, such as the World Series or New York University’s graduation.

Giuliani’s policies have not been confined to the streets of New York. Flynn notes that finger imaging is being used to link shelters with immigration offices and databases. According to Markee, anyone who refused to move along when approached by New York City Police Officers was immediately arrested during several months late

in 1999. The Mayor backed off of the policy and began calling NYPD Officers' actions "outreach and referral." Police officers began arresting individuals when they once issued tickets or court summons. As a result, individuals who usually slept in the streets began to turn to shelters for sleep and escape from the NYPD Officers. Then in January or February, 2001, on one of the coldest nights of the winter, NYPD Officers entered several of the city's emergency shelters in the early hours of the morning to perform warrant sweeps. Many homeless individuals were arrested in the dead of night for outstanding warrants, all but one of which was for misdemeanor charges.

Media portrayal of homelessness has been used to justify New York City's treatment of its homeless citizens. In November of 1999, a woman was hit in the head with a brick that was supposedly thrown by a homeless man, according to Markee, Lewis and Williams. The story ran in every paper and on every news broadcast for several days. Eventually, the homeless man who was arrested for the crime was released when it was discovered that he had been in a store several blocks away from the scene of the crimes at the exact time of the crime.

The push to vilify and criminalize homeless individuals has led to a dangerous environment in New York City. Homeless individuals are portrayed as criminals. This practice has led to a string of hate crimes perpetrated against homeless individuals. But Markee reports that the incidences of hate crimes reported have slowed since the early nineties. He goes on to tell the story of a homeless man who was set on fire in the stairwell of the building he had been sleeping in. Williams states that homeless individuals are under constant attack in Greenwich Village. There have been many instances of individuals kicking boxes that homeless individuals were sleeping in,

throwing bottles at homeless individuals and even setting boxes on fire as homeless individuals slept inside of them.

Advocates and individuals experiencing homelessness have brought several lawsuits against New York City and Giuliani in response to his aggressive attempts to criminalize homelessness and deny services to homeless individuals. Merjian and Flynn note that contempt charges were filed against the city for its failure to comply with the *Hanna v. Turner* ruling of 1999. The ruling ordered the city to provide same day, medically-appropriate housing to all homeless individuals with AIDS who qualified for the program. After eight months of the city's refusal to comply with the ruling, the court found the city in contempt of the ruling and ordered its immediate compliance. A separate lawsuit, *Wright v. Giuliani*, charges that the very same emergency housing for homeless individuals with AIDS is deplorable and life-threatening. The lawsuit is pending in federal court. Contempt charges have also been filed against the city for its failure to comply with the ruling in the *McCain v. Giuliani* case. The ruling stated that emergency housing was to be provided immediately to homeless families and women with children. Homeless families have been sleeping on the floor of New York City's only Emergency Assistance Unit, an old abandoned warehouses, for months at a time.

There are many grassroots organizing efforts under way in New York City, fighting for the civil rights for all of the residents of New York. Markee is aware of many organizations that are focusing on police harassment and brutality. These organizations are seeking to document incidents of police harassment and brutality and to educate the public about these incidences. Williams is working with a grassroots organization, Picture the Homeless, to ensure that these efforts include the civil rights

abuses that homeless individuals experience. He is working with the police to provide a clear picture of the challenges that homeless individuals face in New York City.

Williams attends Community Board meetings and city meetings to challenge policies that exclude and criminalize homeless individuals. Flynn is part of a network of organizations that are organizing around the rights of individuals with AIDS. All of these organizations work toward the common goal of providing the many different homeless residents of New York City the opportunity to voice their concerns over current city policy and to attempt to influence future policy concerning homelessness.

Charlotte, North Carolina

Charlotte has passed a panhandling ordinance to target homeless individuals. Frank Mansfield of the Uptown Shelter reports that the ordinance is used loosely. Although the number of citations issued has decreased, the Charlotte Police have been known to visit overflow facilities and shelters with lists of outstanding warrants. They check the guest registries and arrest anyone with an outstanding warrant. The police also perform periodic sweeps under bridges throughout the city. Individuals are either transported to shelters or are taken to a detox center if they are inebriated. One shelter posts “no trespassing” signs to keep people from congregating outside while they wait for labor pool vans. The gathering of groups of homeless people led to accusations of drug use and sale at the shelter.

The Charlotte Police hold community meetings that include homeless individuals in an attempt to improve interactions between communities, police, and homeless people.

There have been several successful community clean-ups with participation of service providers, homeless people, and other community residents.

Cincinnati, Ohio

The city of Cincinnati has chosen to deal with homelessness by criminalizing and harassing homeless and poor people. Police reports for 2000 show numerous citations are issued and arrests made in low-income neighborhoods in Cincinnati. The most common violations are: “possession of an open flask,” “public intoxication,” “criminal trespass,” and “obstruction of official business.” In many cases, there are hundreds more arrests for these violations in poor neighborhoods than in other neighborhoods.

“When you are homeless the police look at you like s*** and all they want to do is take you off the street no matter how they have to do it. If they have to use brutality, they will.”
- Raymond, a man experiencing homelessness in Cincinnati

The city of Cincinnati has voiced concern that targeting affordable housing dollars concentrates the poor inside the city. City Councilmember Jim Tarbell asked the question, “Do we really want the poor, the people with the most problems, as the first thing you see when you come to this city?” This public remark was made during a discussion over a project requesting federal pass-through dollars.

One local service provider notes that a 1995 law restricting where and when panhandlers can ask for money was struck down by a court in 1998 after the ACLU argued that the law violated a homeless person’s right to freedom of speech. However, the law against “aggressive panhandling” remains. “Aggressive” is defined as yelling or

physically assaulting individuals in an attempt to obtain money. There was an attempt in 1996 to create an “exclusion zone” in Cincinnati’s poorest neighborhood, Over-the-Rhine. The law barred anyone *arrested* for drug charges in Over-the-Rhine from entering the neighborhood for 90 days; and it barred anyone *convicted* of drug charges from entering the neighborhood for one year. Additionally, the law barred those arrested or convicted of sexual offenses from entering Over-the-Rhine at all.

Advocates from Justice Watch, an advocacy group and transitional shelter for ex-offenders, tell the story of a homeless man who was denied access to food, clothing and shelter in the Over-the-Rhine area due to a prior drug conviction. A U.S. District Judge overturned the law creating the “exclusion zone” in January, 2000.

Cincinnati’s 2000-2004 Consolidated Plan highlights the city’s desire to hide its poverty. Page 113 of the plan states: “Many of the components of the city’s fair housing strategy have already been discussed as parts of the strategies for homeowners and renters. However, discussing them together as part of a strategy to promote fair housing and increased choice underscored the City’s commitment to reducing concentrations of African-Americans and poverty.”

Sweeps of homeless people from the streets have been documented in many areas of Cincinnati. Advocates are concerned about the treatment of homeless people in Washington Park located in the heart of the Over-the-Rhine neighborhood. Captain Demasi and Sergeant Rannigan of the District 1 precinct of the Cincinnati Police state that, “Sweeps of homeless camps do not happen unless someone’s safety is threatened, including the safety of the homeless individual.” Captain Demasi also says that homeless people are being arrested more frequently in the park because of concerns over the safety

of children attending a nearby elementary school. However, advocates note documented and suspected sweeps connected to political events, holidays, the 2000 census, and searches for robbery or burglary suspects. Many advocates claim that Washington Park's proximity to Cincinnati's historic Music Hall is the reason for the constant sweeps of homeless people from the park. One advocate reports that sweeps in Washington Park around the holidays are called "Operation Nutcracker," although local police deny knowledge of such an operation.

Homeless individuals face daily harassment as well as arrests in Cincinnati. Eight of the nine homeless men interviewed by the Greater Cincinnati Coalition of the Homeless say that they fear the police, and all nine claim that they have been discriminated against because they are homeless. Raymond reported, "When you are homeless the police look at you like s*** and all they want to do is take you off the street no matter how they have to do it. If they have to use brutality, they will." John said, "I was pulled aside because I was homeless. I got disorderly conduct. I just got out of jail for disorderly conduct. But if I had a suit on, I don't think they would have cared." Advocates from agencies in the Business Improvement Districts of Cincinnati note that, despite all of the bars and intoxicated people in bars in the Main Street entertainment district, the police still single out homeless individuals for arrest and harassment. Another homeless man said, "I go clean up Fountain Square at 5:30 a.m. for the man who runs Fountain Square for \$2, and every morning the police check me to see if I have alcohol."

The Cincinnati Coalition also surveyed 196 homeless men and 74 homeless women. 31% of the men and 11% of the women surveyed believed they had experienced

police harassment in the past 12 months. 25% of the men and 8% of the women surveyed said they felt undue force was used in a police encounter. Despite these statistics and interviews, representatives of the Cincinnati Police deny any targeted attempt to criminalize homelessness. When told about the interviews with the homeless men, Captain Demassi said, “No officer discriminates against the homeless in this department.”

Local homeless advocates say that hate crimes/violence against homeless people in Cincinnati have been difficult to document because victims do not want to come forward. However, two individuals did come forward last winter to report a hate crime that was subsequently documented and investigated by the police. A homeless encampment on the banks of the Ohio River was attacked by a group of young teenagers wielding bricks and, reportedly, a firearm. The encampment was attacked with the bricks. One individual’s nose was broken, and another’s ribs were broken. Both had severe bruising and cuts all over their bodies. The police, who did not respond quickly to the two men’s initial requests for an investigation, became more cooperative when photos of the men’s destroyed tent and bricks that had blood on them were taken to the precinct. No arrests have been made.

Cleveland, Ohio

According to local advocates, Cleveland has repeatedly attempted to use its police to enforce a policy of “out of sight, out of mind” toward homeless individuals. In 1999, the mayor of Cleveland adopted a policy of threatening arrest of anyone sleeping, sitting, or even walking on the street. The American Civil Liberties Union (ACLU) and the

Northeast Ohio Coalition for the Homeless (NEOCH) together sued the city to stop the policy. After two months of court battles, the city settled the lawsuit, pledging not to engage in this activity. In 2000, there was a rise in the number of homeless people arrested for criminal trespassing for sleeping underneath public bridges. “In the ten years that the mayor has been in office, his administration has used a hammer to deal with the rising homeless population,” reported Brian Davis, Executive Director of NEOCH, in an interview. “The City Council of Cleveland is at war with the Mayor’s administration, making it impossible for the Mayor to get any anti-homeless laws passed. He has traditionally used executive order to accomplish what he cannot accomplish through legislation,” continued Davis.

Angelo Anderson, a vendor with the *Homeless Grapevine*, reported, “Sweeps seem to be directly connected with the holiday season in the city’s Central Business District, which steps up enforcement of aggressive solicitation laws.” NEOCH and other activists worked to stop the sweeping policy in February, 2000. They also set up a Care Line for the Central Business District that allows businesses to call social service agencies to intervene instead of the police. According to Davis, “Although we have only heard isolated incidences of sweeping connected with events, we have seen limited attempts to prevent homeless people from going into surrounding suburban communities.”

Over the past five years, the ACLU and NEOCH have challenged anti-homeless policies three times. The first, in 1995, was the kidnapping and dumping of homeless people. The second was the registration of homeless vendors of the street newspaper, *The Homeless Grapevine*. The third was the sweeping of homeless people from the

sidewalk. NEOCH also assisted homeless people who were attempting to preserve an abandoned building that they had lived in for the last few years. The preservation of the abandoned building which homeless people called “Camelot,” raised many issues about the lack of affordable housing. “While we lost the building, there were some wonderful issues raised, and a great community debate about homelessness followed,” said Davis.

According to Jim Schlect, Director of the Volunteers of America Men’s Shelter, people in the community have used other tactics to block the services for homeless people. “A Catholic Church next to a meals program site close to the downtown area deliberately did special landscaping around the property so that homeless persons couldn’t congregate or sleep in front of the church,” said Schlect.

NEOCH and *The Homeless Grapevine* listed the social service providers who accepted the city’s sweeping policy on the “*The Homeless Grapevine* Wall of Shame.” “When your government turns against you, it takes years to develop a trusting relationship with outreach workers,” said Davis.

NEOCH and other agencies have been instrumental in designing constructive alternatives. “We have done one police sensitivity training at the Police Academy,” said Davis. This resulted in the police opposing the 1999 sweeping policy and refusing to arrest street people. Davis said, “They were very sympathetic to our arguments and quietly helped the Coalition behind the scenes.” Advocates have also been effective with the State of Ohio, which has agreed not to conduct sweeps under bridges without providing warning to local outreach workers.

All local activists agree that there was a dramatic increase in hate crimes/violence committed against homeless people in 2000. Much of this crime has been directed at

homeless individuals. They cited bricks being thrown at homeless people, a rash of glass bottles thrown from cars at homeless people, an incident of one man being set on fire while he was sleeping and construction workers throwing items on homeless people while they were sleeping. They also cited a homeless woman who was raped by a group of intoxicated men leaving a Cleveland Brown's football game.

The city of Akron is developing a special drug court, and Cleveland is watching this experiment. Cleveland is also planning a separate mental health court.

Toledo, Ohio

According to local activists, treatment of homeless individuals has improved in Toledo over the past few years. The city of Toledo has collaborated with service providers to supply the needs of homeless individuals. An *ad hoc* committee was created to determine how to meet unmet needs of homeless people, and how to end homelessness. Service providers have also developed a relationship with the city's police force that has resulted in the police not arresting any homeless individuals unless they are causing a nuisance. There have not been any sweeps of homeless individuals from the streets of Toledo.

Understanding that there is a misconception about homelessness, Sirlema Crowley of Catholic Charities said, "It's important to get people to understand that not everyone who is homeless is a drunk hobo." She noted the increase of families who are now experiencing homelessness in the Toledo area. There has been a marked increase in the homeless population. "All of a sudden, shelters are full and people are sleeping on the streets," said Crowley. "This increase is due to welfare reform," she continued.

There is a lack of safe and affordable housing which makes many activists feel that the Continuum of Care is not working. The general consensus is that there is need for more supportive services such as first-month-rent programs, and a living wage from employers.

Tulsa, Oklahoma

Jim Lyall from the Community Service Council of Greater Tulsa reports that he does not think any significant changes have occurred in attitude or law during the last two years affecting the criminalization of homelessness. In 1999, homeowner associations near the downtown area expressed fear and anger about homeless people in their neighborhoods. The local homeless provider network and the Mayor's Office engaged these leaders and invited them into the Continuum of Care process and other activities. Education about homeless individuals and the goals of service agencies is important. Some of the people from the neighborhoods expressing concerns are now advocates for homeless individuals.

Homeless people are more likely to be criminalized for public intoxication, with many facing multiple arrests for the offense. We do not have a "drunk tank," but a "public inebriate alternative" is under consideration by a local criminal justice authority. Many service providers believe that the arrest rate for public intoxication results more from a lack of treatment alternatives and poor funding for substance abuse treatment than from police bias. Police frequently take "drunks" to the Salvation Army for shelter. In general, city and state financial support for mental health care and substance abuse treatment is generally inadequate.

Tulsa tends to work hard at coalition-building to strengthen service systems and often includes human service agencies, police departments, courts and businesses in the process. This strategy may account for less “criminalization.” However, there are people who would prefer that homeless individuals just go away. Lyall estimates that about 25 homeless people die each year in Tulsa. Oklahoma also incarcerates at a high rate and is first in the nation for incarcerating women.

Other more general laws are used to target homeless people, such as anti-trespassing laws, drug-free zones and park exclusions. If a person is arrested for using or selling illegal drugs in a drug-free zone, the individual is excluded from that neighborhood for a specified period of time. A person who re-enters a drug-free zone can be arrested for trespassing even before a court hearing on the original charge of use or selling. Most zones are in low-income neighborhoods or areas with a high concentration of social services.

Portland, Oregon

Despite good intentions to address issues of homelessness, the city of Portland continues to arrest and harass people simply based on their economic status. Though there was an increase in services for homeless families, youths and single adults in 2000, reports of harassment have not decreased. Chuck Currie and Elizabeth Pope of the First United Methodist Church of Portland report that the Portland Police Bureau, the Oregon State Police and Oregon Department of Transportation enforce anti-homeless laws.

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using or selling illegal drugs in a drug-free zone, the individual is excluded from that neighborhood for a specified period of time. A person who re-enters a drug-free zone can be arrested for trespassing even before a court hearing on the original charge of use or selling. Most zones are in low-income neighborhoods or areas with a high concentration of social services.

Portland also has Economic Improvement Districts (EIDs). In these districts, uniformed, armed guards often harass homeless people. The guards wear uniforms that are indistinguishable from the Portland Police Bureau, and many are off-duty or retired officers.

The good news in Portland was the overturning of a 19-year-old anti-camping ordinance in September, 2000. Judge Stephen Gallagher stated that the ordinance “punishes the status of being homeless” in the *State of Oregon V. Norman D. Wicks, Sr. and Norman D. Wicks, Jr.* case (case no. Z711742 and Z717743) in the Multnomah County Circuit Court.³⁴ Legal challenges to the drug-free zones are ongoing.

Philadelphia, Pennsylvania

Alex Otieno from Project H.O.M.E. reported that Philadelphia’s treatment of homeless people has changed in the last two years. The City of Philadelphia passed the Sidewalk Behavior Ordinance into law on June 16, 1998. The bill was initially meant to be a vehicle for limiting the visibility of homeless individuals. The ordinance includes \$20 fines for solicitation of funds on the highway, lying on the sidewalk, sitting on the sidewalk, leaving belongings on the sidewalk, aggressive solicitation, aggressive

³⁴ See Appendix Two, p 112.

solicitation within eight feet of any building or vendor and aggressive solicitation within 20 feet of any bank or ATM.

Thanks to the activism and advocacy of the homeless service providers and concerned citizens, the City of Philadelphia moved in a positive direction and sought to provide services to homeless individuals rather than criminalize them. According to Philadelphia Police Department Memorandum 99-1, police contact with homeless individuals has to proceed as follows: issuance of a verbal warning, issuance of a written warning, and then contact with an outreach team. Police officers cannot issue any citation in the absence of an outreach team. There is a requirement for documentation of the name of the outreach worker present. In addition, the implementation of the Sidewalk Behavior Ordinance in January, 1999, included allocation of an additional \$5.6 million in homeless service funds from the City. The funds were used to increase shelter beds and the number of outreach workers, as well as to establish a Homeless Outreach Hotline. Thus, the City has focused on increasing shelters and providing health care services to homeless individuals rather than getting them out of sight.

Pittsburgh, Pennsylvania

Lillian Thomas, a writer for the *Pittsburgh Post-Gazette*, brings attention to the recent Department of Transportation's destruction of an encampment of homeless people in her article, "Pennsylvania DOT Ejects Homeless from Campsite Under Ramp," printed June 7, 2001. The DOT cleared out the encampment several hours after issuing a warning to the group of individuals who called the area beneath the ramp a temporary home. Advocates for individuals experiencing homelessness were outraged by the

action. John Michel, an outreach worker, called the action a “betrayal of a system put into place by the Mayor’s Task Force for the Homeless.” The Task Force has established a hotline that allows all agencies and individuals to call for outreach workers to come and contend with issues and concerns involving homeless people. Michel notes that the neither the DOT, nor the Department of Public Works, which requested the DOT response, called the hotline. Michel said, “Such actions are not only unnecessarily harsh, they’re also ineffective in solving what people perceive as the problem: individuals living on the streets.”

San Juan, Puerto Rico

Puerto Rico is not the paradise for people who are homeless as it is for tourists. There are many ordinances delineating prohibited conduct. It is unlawful, for instance to sit on the sidewalk, or receive money in public. It is unlawful to bathe in a public place. Creating odor is illegal, as is charging for a car wash or watching cars. On a more tragic note, people have charged the municipal police with beating and allegedly stranding them on the highway. The mayor of Bayamon has denied these charges saying that municipal police have started picking up people who are homeless “but only to offer them services.” This is part of a program called New Dawn which works in conjunction with community-based organizations, picking up homeless people and offering them rehabilitation. It is not stated what happens to those who refuse to be “rehabilitated.” The mayor states that the only reason people are moved on from high traffic areas is to prevent accidents.

In October of 2001 a person sleeping on the sidewalk was beaten with a pipe and hospitalized. Local homeless advocate Glorin Ruiz Pastush says, “Even though Puerto Rico’s Constitution recognizes social condition as one of the groups protected from abuses, the reality is that those who suffer the poorest social condition of all, being homeless, are continually vulnerable to abuse from some citizens and from those that are supposed to protect them, the police.”

Providence, Rhode Island

Noreen Shaw-Cross, the Executive Director for the Rhode Island Coalition for the Homeless, reports that the treatment of homeless people in Providence has not changed significantly in the past two years. There is not a large problem with homeless people getting tied up in the criminal justice system for minor offenses as happens in other cities. Any downtown sweeps are broad and not targeted at homeless people specifically.

In general, any efforts to reduce the number of homeless people visible in Providence have been targeted at the places serving homeless people, such as shelters and soup kitchens, rather than at homeless individuals themselves. In June, an ordinance was proposed to restrict the location of soup kitchens and residential units. The ordinance was so restrictive it basically left only two areas where such facilities could be constructed -- a park and the golf course. The ordinance has been declared unconstitutional, and will most likely be defeated. The business development area wants to move the Traveler’s Aide Day Center from its current location, but the proposed new location will still be very central and convenient for most homeless people, and the new building will actually offer more space.

Homeless people who seek shelter are usually able to find it. The year 2000 was the first time that there was actually a shortage of beds, but people have been allowed to stay overnight at the day center as an emergency shelter, although there are no beds for them to sleep in. Those who sleep outside have not complained about harassment by the police, and they seem to have their own “hiding places” where they will not be bothered.

There is extensive police training in Providence, but it is not specifically related to homelessness. Shaw-Cross notes that the training was spurred by incidents of racial profiling. However, this training is likely beneficial for the treatment of homeless people, as well.

Charleston, South Carolina

Niki Rofs of Crisis Ministries sees no change in the city of Charleston’s treatment of homeless people over the past two years. Homeless individuals are given two choices, either accept shelter space and make a move to get to it, or go to jail. Individuals in areas of tourism are quickly asked to leave and get to a shelter, none of which are located in the areas of high tourist traffic. Additionally, the beautification of several downtown parks has left homeless people without a place to stay or rest. The parks are entirely fenced off. There do not seem to be enough police to perform sweeps of homeless individuals, but there have been arguments for such actions. Police are stationed at one of the shelters ten hours each day. The police are armed with a small booklet of information to give out to homeless individuals when they ask them to move along.

Sioux Falls, South Dakota

According to an Associated Press release dated October 26, 2000, Wagner Police Chief Ed Zylstra has been accused of using excessive force in arresting an American Indian woman who is experiencing homelessness. An eyewitness stated, "I saw her and the cop walking toward her. I couldn't hear what she was saying. I could just see her arms waving at her side. He just grabbed her and slammed her down to the street. Her face was on the street." The woman said that she was leaving the nearby grocery store when Zylstra told her that she was under arrest for trespassing and panhandling in the

During the four years of court battles, camps were bulldozed and homeless citizens just sitting at bus stops and on park benches were ticketed for placing their bags on the ground. A homeless man was set on fire. The tone was set. The message was clear: homeless people are "non-citizens."

grocery store. "The next thing I knew, I was face down. My glasses broke, and my head hit the pavement. He kneeled on my kidney."

Austin, Texas

The City of Austin has turned to criminalization as a response to homelessness in the city. On January 4, 1996, the downtown businesses in Austin, having grown tired of the city government's failure to deal with the homeless problem passed the "No Camping Ordinance." A local grassroots organization, House the Homeless, Inc. (HTH) fought the anticipated ordinance for over four months before its actual proposal. HTH borrowed thousands of dollars to run full-page ads debating the ordinance before the entire city. That tactic forced the creation of a Homeless Task Force to look at not just the ordinance but at all issues facing the homeless community. HTH, using educational

pickets, also forced public hearings on the ordinance. In spite of the pressure, the ordinance was passed.

During the four years following the passage of the ordinance, House the Homeless' volunteer attorney, Cecilia Wood, took on the city of Austin. For four years, the courts stonewalled the advocates. In attempting to challenge the constitutionality of the "No Camping" ordinance on numerous levels, the attorney found the legal system stacked against homeless people.

Finally, on May 16, 2000, Travis County Magistrate James Coronado, with 50 homeless men and women present, "deflated" the ordinance when he wrote that sleeping is a life-sustaining act and cannot be criminalized. Subsequently, in October, 2000, the City Council rewrote the ordinance, striking references to sleeping. However, a few citations continue to be written by harassing police officers.

During the four years of court battles, camps were bulldozed and homeless citizens just sitting at bus stops and on park benches were ticketed for placing their bags on the ground. A homeless man was set on fire. The tone was set. The message was clear: homeless people are "non-citizens." Over 4,000 tickets were issued, each of which came with a \$200 fine. People were ticketed for sleeping in the open, camping anywhere and sleeping in their cars. Single women with children were pulled from their cars, and their possessions impounded. Child Protective Services removed children from their mothers for "abuse and neglect" for living in their cars. This repressive practice was initiated by local downtown businesses and championed by Mayor Bruce Todd and subsequently by Mayor Kirk Watson, who "enhanced" the ordinance. If found guilty of three "public nuisance" offenses, homeless people were labeled as "habitual offenders" and then faced

six months in jail and a \$2,000 fine. The alternative to paying the fine was to perform community service for “crimes against society.” Community service consisted of working for free with no food.

Sweeps of the downtown areas are still conducted at the end of each week and camp sweeps in secluded, wooded areas occur sporadically. Persons “recognized to be homeless” are either given tickets for public intoxication or infractions of the “no camping” ordinance. The “public intoxication” law gives police officers discretion to decide whether or not a person is drunk, and there is no verifiable field sobriety test like the one used for the drivers of motor vehicles. As a result, homeless individuals are often arrested for public intoxication even if they haven’t been drinking.

The Downtown Alliance created the Downtown Rangers, an unarmed police force whose officers ride bicycles and act as “spotters.” They use walkie-talkies to call police officers. When officers arrive, they use an array of harassment tools and ordinances to remove homeless persons. Offenses with which homeless people are often charged include panhandling, jaywalking, public intoxication and criminal trespass.

At one point, the city of Austin named a Homeless Task Force to design a comprehensive three-acre homeless campus. However, instead of creating the new facility, the City leased the land to a high tech computer company, Computer Service Corporation, displacing the existing Homeless Resource Center. In August, 2000, the Homeless Resource Center was again displaced by the business community. The idea of the three-acre campus has been replaced with a new vision.

There are only two publicly-funded detoxification beds specifically set aside for single homeless adult males. For the entire homeless population of between 3,500 and

6,000 persons, there exist fewer than 500 emergency shelter beds. Of these, there are only 25 beds for single homeless males at the local Salvation Army, of which only eight to ten become available each night.

Advocates for individuals experiencing homelessness, spearheaded by House the Homeless, Inc. (HTH), have initiated many grassroots organizing projects and initiatives. Sixty percent (60%) of the Board Members of HTH are homeless or formerly homeless and all members are homeless or formerly homeless citizens.³⁵

Through research and information HTH members realize that their experiences of civil rights abuses are not peculiar to Austin or to Texas, but rather reflected across the country. Richard Troxell, the president of House The Homeless, wrote the Protected Class Status Homeless Resolution to provide a means for protecting homeless people against criminalization for economic status.

Dallas, Texas

Despite careful monitoring of police harassment of homeless people in Dallas by *Endless Choices*, a street newspaper, the harassment has not ceased. Clora Hogan, Executive Director of the newspaper, states that the monitoring has led police to be more covert and careful with their harassment of homeless people.

Sweeps of homeless people from the streets occur about every four to six weeks. During those sweeps, homeless individuals' identification is checked. Ordinances prohibiting sleeping in public and blocking of sidewalks are enforced daily. An ordinance prohibiting pedestrian traffic in a roadway is enforced against vendors of

Endless Choices. The ordinance is not, however, enforced against church groups participating in charitable activities.

Sweeps are mainly conducted in downtown business districts early in the morning when shelters have just made everyone leave. During the Black Mayors' Conference in Dallas in the summer of 2000, police told homeless people they were not to be seen on inner city streets the day that the Mayor of Dallas was giving his walking tour of the city. The Central Business District Police Lieutenant admitted to Clora Hogan that a "zero tolerance" policy was enforced against homeless people. Anyone seen in the area of City Hall with lots of bags or with shopping carts was told to move out.

Every six weeks *Endless Choices* conducts a "Homelessness 101" class at the Police Academy. Frequently a formerly homeless man comes along to share his story. The training sessions are reported to be going well.

El Paso, Texas

In El Paso, the City's treatment of homeless people has actually improved in recent years, says Ray Tullius Jr., acting Executive Director of the El Paso Coalition for the Homeless. Members of the El Paso Coalition for the Homeless often appear before the City Council, and support is evidenced by the funding of new projects. There is Coalition representation in the Central Business Association to address issues with homelessness, and funding from the CBA helped to keep the Opportunity Center's night shelter open all summer.

³⁵ On April 16, 2001, HTH launched a new web site: www.UniversalLivingWage.org, where people can vote for a Universal Living Wage on line; the site includes a formula for determining living wage in any U.S. jurisdiction.

The El Paso police are working on “community policing,” and Coalition staff members sit with the police to resolve the issues related to homelessness. The police are the primary homeless outreach team and are asked to bring willing homeless people to the Opportunity Center for services. The majority of confrontations at the Center involve the mentally ill, and police are part of a team that includes Opportunity Center staff and mental health outreach workers who connect to an emergency psychiatric center.

Ray Tullius, Jr. reports that ordinances prohibiting panhandling are not rigidly enforced. There is an “open container” ordinance that affects the downtown district and is enforced if a problem erupts. However, there is no perceived selective enforcement of this ordinance targeting homeless people. The police in El Paso do not conduct any known sweeps of homeless people, although one homeless individual reported that during an event at the central plaza, homeless individuals with backpacks were asked to leave.

Other homeless people in El Paso reported being asked to present identification from time to time, especially on Sunday mornings at the central plaza when the few people who are there are usually homeless. The El Paso Coalition for the Homeless secured a grant from the mental health authority to develop a mental health Homeless Outreach Team (HOT). This team, comprised of a psychiatrist, a nurse and several caseworkers, offers quicker access to services for the homeless population than to the housed mentally ill. The Coalition monitors the cooperation of shelters and the HOT team, and the partnership plans to fill the major gap in El Paso’s Continuum of Care.

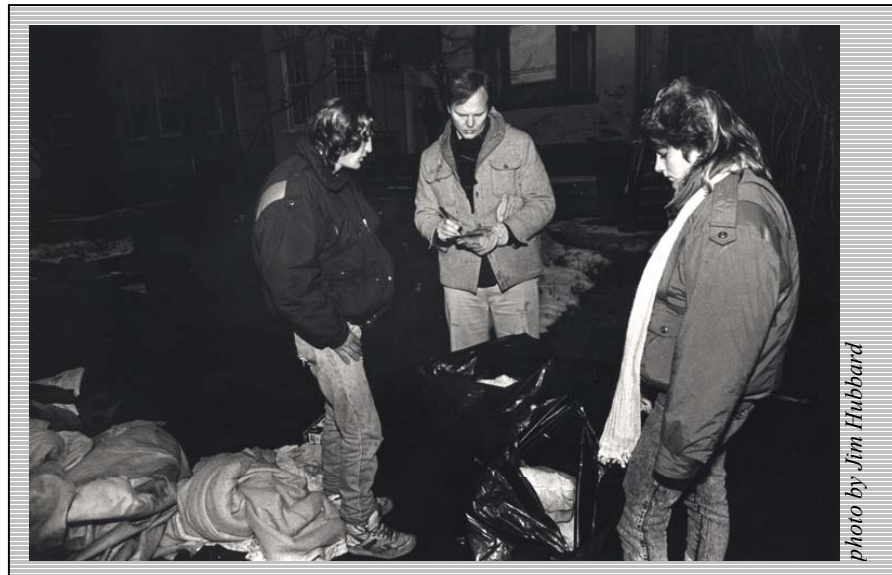
Fort Worth, Texas

Mike Doyle, Executive Director of Corner Stone Network, states that advocates in Fort Worth are not aware of anti-homeless ordinances. In general, if homeless people who sleep downtown stay out of the entrances to businesses that are open, they are left alone. The homeless people of Fort Worth have their own Neighborhood Patrol Officer. If there is a problem, that officer is called, and he or she determines how to handle the incident. The officer often knows the homeless individual by name.

Houston, Texas

The Coalition for the Homeless of Houston/Harris County reports that there is not a concentrated effort to criminalize homelessness in Houston. Executive Director Pamela Williford notes that three large men's shelters have been opened within the past two years, and that each one received city support. These shelters have provided greatly enhanced shelter capacity in the City of Houston.

An
attempt to pass
Civility
Ordinances
ultimately failed.
The Coalition for



the Homeless included outspoken advocates from the homeless population to speak at City Hall. Some members of the City Council were also strong advocates for homeless individuals.

Anti-loitering and panhandling laws are misused, although the Coalition reports not to any great extent. Property owners in one particular area, Midtown, did secure support of one Houston Police Department Command Station to develop a Nuisance Abatement Task Force. The Task Force was not formed, however, as a police department mandate.

A network of grassroots advocates including the Coalition for the Homeless and the Gulf Coast Legal Foundation are prepared to defend the civil rights of homeless people when necessary. For instance, an attempt was made to close a lunch facility, Martha's Kitchen, but after several meetings with advocates, residents and other area representatives resulted in a suitable compromise.

The Mayor, City of Houston, Harris County and Houston Police Department work with homeless service providers and maintain a constant dialogue in an attempt to employ a humane approach in providing for homeless people. In fact, a Houston Police Department Officer is a member of the Board of Directors of the Coalition for the Homeless, as are representatives from the city and county governments.

San Antonio, Texas

KSAT TV 12 in Texas reported on March 27, 2001, concerning the reversal of a jury finding by the 5th Circuit Court on the previous Monday. The case involved a patrol officer from the downtown beat in San Antonio who spoke out against orders to target

and harass gang members and homeless people in the downtown area. Officer Serna claimed that he was transferred to a different beat because he blew the whistle on the city police department's policy of harassment. A jury found in favor of Serna, but the 5th Circuit Court reversed the decision. The reversal is being appealed by Serna's attorney, Bruce Mery.

Salt Lake City, Utah

A few years ago, the former mayor of Salt Lake City began a "zero-tolerance" of homelessness policy in an effort to "clean up" Pioneer Park, a downtown park near the Travelers' Aide homeless shelter. The focus of this new policy was primarily the dealing and use of drugs in the area. However, advocates believe the policy was enforced too broadly. The numbers of complaints of police brutality rose as police officers volunteering for this assignment hassled, ticketed, or arrested homeless people who allegedly committed minor "infractions" such as loitering, spitting, jaywalking, littering or trespassing. One man was cited for littering when his sunglasses fell off. In another incident, police officers lined homeless men up against the wall as they walked out of the men's shelter. Some men had their faces slammed into the brick wall. On two other occasions, individual men complained the police had broken their jaws. There were continuing complaints about the violence of the police where officers put men on the ground and then jammed their knees against the top of the neck or back. This procedure can result in permanent injury or paralysis, which happened in one well-publicized case in Utah, not involving a homeless person.

Advocates worked with the homeless men and women to report their complaints to the police department, and little by little the situation has improved, reports Linda Hilton of Crossroads Urban Center / Statewide Coalition of Religious Communities. After the election of Mayor Rocky Anderson, a civil rights attorney and former board chair with the American Civil Liberties Union of Utah, the city policy ended. However, police still target homeless people for minor infractions, especially in Pioneer Park. In the experience of one service provider, the citations do not reconcile with the actions of homeless people. For example, an officer might write a ticket for trespassing when a homeless person is sleeping on public property. In fact, Elisa Della-Piana, local advocate, observed police officers illegally searching homeless people.

Homeless people sleeping outside the Pioneer Park area have also found it difficult to survive. Those people living in shantytowns built on city-owned fields have had their homes bulldozed and property hauled off to the dump, according to Hilton.

Cori Sutherland, of the American Civil Liberties Union, and an unnamed source both note that employers who pick up day laborers often require hard labor and then refuse to pay the workers, even beating them sometimes. However, through outreach to day laborers as well as the cooperation of the Salt Lake City Police Department, the State Labor Commission, and the Salt Lake City Prosecutor's Office, advocates have begun to combat illegal employer practices.

Despite the improvements over the last year, however, both Hilton and Sutherland agree that service providers and civil rights advocates are preparing for anticipated problems when the Winter Olympics come to Salt Lake City in 2002. The political atmosphere surrounding the issue of homelessness is still so charged that one

advocate from Salt Lake City asked to remain unnamed in the report. The advocate feared political retaliation for speaking against city policy.

Hilton and Sutherland go on to note that there are advocates and service providers in Salt Lake who are being proactive, particularly around the issue of the 2002 Winter Olympics. In November 2000, the Salt Lake Olympic Committee and the Humanitarian Services Committee, issued a report that included the Olympic impact on the city's homeless people. Hilton cites the report that estimates up to one hundred people will be displaced from existing motels, putting strain on already-overworked service providers. In addition, service providers are emphasizing that hundreds more people could be homeless during the Olympics, and so far the city has not provided any funding for additional shelters during that time.

Lynnwood, Washington

An Associated Press report from May 7, 2001, states that Lynnwood, Washington, passed an ordinance prohibiting individuals from living in their cars. The ordinance carries up to a 90 day jail sentence and up to a \$1000 fine. Rick Reynolds, Executive Director of Operation Nightwatch, said that Lynnwood's attitude seems to be, "We don't care that they're homeless; we just want them out of our sight." He goes on to say that Lynnwood has one YWCA that only serves women with children. The YWCA does not have any emergency beds, however. Peter Van Guisen, a code-enforcement officer, estimates that there are 20 to 30 cars that double as bedrooms on Lynnwood's streets. This law will further displace those individuals who have no choice but to sleep in their cars.

Seattle, Washington

Tim Harris, Editor of *Real Change*, says that homeless people in Seattle are cited and arrested for drinking in public and sitting or lying in public areas. There is a partnership between the Department of Corrections and the Police whereby police officers are given information on outstanding warrants on people to whom they are issuing a citation. Thus, they are able to arrest persons who would otherwise only be issued a citation.

Pioneer Square has become an “alcohol impact” area. Local merchants have taken all low-grade alcohol from the shelves to make it more difficult for homeless people to purchase alcohol. This practice appears to be becoming a trend as other neighborhoods are looking to implement the policy. In the Business Improvement Districts, homeless people are harassed by security policing units that patrol the areas.

In 1998, the mayor promised to create enough new shelter beds to get all the women and children off the streets before the Christmas of 2000. That promise was not been fulfilled. Instead, the city and county have created separate courts for individuals with mental illness.

Wheeling, West Virginia

Six homeless men interviewed at Wheeling’s Salvation Army shelter reported to representatives of the Greater Cincinnati Coalition for the Homeless that there is “no

discrimination against the homeless in Wheeling, West Virginia.” The shelter director concurs with this belief. The premise behind this perspective is an apparent understanding between the police and homeless people. In fact, the former president of the board of the Salvation Army Homeless Shelter is the current Wheeling Chief of Police.

Although services in Wheeling are scarce, and affordable housing is even scarcer, there is an apparent apathy towards homeless individuals. Homeless people reportedly sleep free of community and police harassment. All of the men interviewed have positive things to say about the Wheeling Police Department. There are no anti-camping laws, and arrests and citations for “non-victim crimes,” like “possession of an open flask,” are minimal. However, several of the men comment that Wheeling is a good place to get sober, but a difficult place to leave homelessness. Livable wage jobs and affordable housing are apparently very difficult to come by, and often people leave the area in search of work and housing. Mental health services and health care for homeless individuals are also very scarce.

Four of the six men interviewed are not from the area and have remained to seek drug or alcohol treatment. One man who has been all over the country comments that Wheeling is one of the better cities he has been to, but West Virginia overall is a very difficult place to be if you are homeless.

II. CASE LAW

***Selected Case Law Researched and Presented by the
National Law Center on Homelessness and Poverty (as of
mid-2001):***

(• Denotes cases involving both public place and anti-begging restrictions.)

Cases are presented in alphabetical order in the following categories:

**A. CHALLENGES TO RESTRICTIONS ON SLEEPING, CAMPING,
SITTING, OR STORING PROPERTY IN PUBLIC PLACES: Page 187**

**B. CHALLENGES TO ANTI-BEGGING, ANTI-SOLICITING and ANTI-
PEDDLING LAWS: Page 217**

C. CHALLENGES TO VAGRANCY AND LOITERING LAWS: Page 233

D. MISCELLANEOUS RELATED CASES: Page 238

A. CHALLENGES TO RESTRICTIONS ON SLEEPING, CAMPING, SITTING, OR STORING PROPERTY IN PUBLIC PLACES

Federal Court Cases

- **Berkeley Community Health Project v. City of Berkeley, 902 F. Supp. 1084 (N.D. Cal. 1995).**

In February, 1994, plaintiffs challenged two recently enacted Berkeley ordinances prohibiting sitting or lying down on a sidewalk within six feet of the face of a building during certain hours and soliciting in certain locations or in a “coerc[ive], threaten[ing], hound[ing] or intimidat[ing]” manner.³⁶ Plaintiffs alleged violations of their rights under the First and Fourteenth Amendments to the U.S. Constitution and various provisions of the California Constitution. The U.S. District Court for the Northern District of California issued a preliminary injunction forbidding enforcement of the anti-solicitation ordinance, finding that it was a content-based regulation of speech in violation of the Liberty of Speech Clause of the California Constitution. The court also issued a preliminary injunction prohibiting enforcement of the restriction on sitting, finding that sitting can sometimes constitute expressive activity, and that the ordinance did not further a substantial government interest unrelated to expression, was not narrowly tailored, and did not leave open ample alternative channels of communication.³⁷ Defendants appealed

³⁶ 902 F. Supp. at 1086.

³⁷ Berkeley Community Health Project v. City of Berkeley, 902 F. Supp. 1084 (N.D. Cal. 1995)(order granting preliminary injunction).

the court's decision on the anti-solicitation ordinance to the Ninth Circuit, but the case was settled before the appeal was heard.

Betancourt v. Giuliani, 2000 U.S. Dist. LEXIS 18516 (S.D.N.Y. Dec. 26, 2000).

Augustine Betancourt brought suit against the Mayor, Police Commissioner and the City of New York ("the City") for his arrest under Section 16-122(b) of the New York Administrative Code. The arrest occurred late in the evening on February 27, 1997. Plaintiff entered Collect Pond Park in lower Manhattan with some personal belongings, three cardboard boxes, and a loose piece of cardboard. Betancourt made a tube out of the cardboard and slipped inside it on a park bench. He was arrested for violating the statute which makes it "unlawful for any person[s] . . . to leave . . . or permit to be left, any box, barrel, bale of merchandise or other movable property whether or not owned by such person[s], upon any . . . public place, or to erect or cause to be erected thereon any shed, building or other obstruction."³⁸ Betancourt brought a number of claims against the City including a claim that the statute was unconstitutionally vague and overbroad as applied to his arrest.

The court granted summary judgment on this claim in favor of defendants. Betancourt asserted the statute should be analyzed for vagueness using an "especially stringent" standard because the statute involved his fundamental right to travel and imposed criminal penalties without requiring a finding of criminal intent.³⁹ The Court, reasoning that the statute did not penalize "merely occupying" public space but rather

³⁸ 2000 U.S. Dist. LEXIS 18516, at *3.

³⁹ *Id.* at *5.

obstructing public space, held that the statute did not penalize the right to travel.⁴⁰

Accordingly, the court rejected both arguments and considered whether the statute was vague as applied to Betancourt, which it characterized as a “fairly stringent” standard.⁴¹

The court found that the statute passed muster under this standard and granted summary judgment in favor of defendants. The court found Betancourt had sufficient notice that his conduct was prohibited, and there are sufficient guidelines in place to limit police discretion in its application. The court granted Betancourt summary judgment on his illegal strip search claim but granted summary judgment in favor of defendants on all other claims.

Church v. City of Huntsville, 30 F.3d 1332 (11th Cir. 1994).

A class of homeless plaintiffs alleged that Huntsville, AL had a custom, policy, and practice of arresting and harassing plaintiffs for performing essential activities in public places, seizing and destroying their personal property, and using zoning and building codes to close or condemn private shelters for homeless people. In 1993, the U.S. District Court for the Northern District of Alabama issued a preliminary injunction prohibiting the City of Huntsville from removing homeless people from the city, and also from harassing, intimidating, detaining, or arresting them for walking, talking, sleeping or gathering in public places solely because of their status as homeless persons, and finally, from using zoning or building codes to close or condemn private shelters in the absence

⁴⁰ *Id.*

⁴¹ *Id.* at *6.

of a clearly demonstrable threat to health or safety.⁴² On appeal, the Eleventh Circuit vacated the injunction, holding that the plaintiffs had not demonstrated that the actions they sought to prevent were part of an official city policy nor had they shown that there was a pervasive practice or custom of violating plaintiffs' rights. Thus they were unlikely to succeed on the merits.⁴³ On remand, the district court, finding that plaintiffs could not prevail under the burden of proof established by the court of appeals, granted summary judgment for the defendant, City of Huntsville.⁴⁴

City of Chicago v. Morales, 527 U.S. 41 (1999).

The city of
Chicago
challenged the
Supreme Court of
Illinois' decision
that a Gang
Congregation
Ordinance was
unconstitutional



for violation of the due process clause of the fourteenth amendment of the U.S.

⁴² Church v. City of Huntsville, No. 93-C-1239-S, 1993 U.S. Dist. LEXIS 20429 (N.D. Ala. Sept. 23, 1993)(order granting preliminary injunction).

⁴³ 30 F.3d 1332 (11th Cir. 1994). The Eleventh Circuit held that the plaintiffs did not have standing to challenge the city's application of its zoning and building codes.

⁴⁴ No. 93-C-1239-S (N.D. Ala. Sept. 30, 1994).

Constitution for impermissible vagueness -- lack of notice of proscribed conduct and failure to govern law enforcement. The ordinance prohibited criminal street gang members from loitering in a public place. The ordinance allowed a police officer to order persons to disperse if the officer observed any person loitering that the officer reasonably believed to be a gang member. The Supreme Court affirmed the judgment of the Illinois Supreme Court and ruled the ordinance violated the due process clause of the fourteenth amendment to the U.S. Constitution for vagueness. Specifically, the court ruled that the ordinance violated the requirement that a legislature establish guidelines to govern law enforcement. Additionally, the ordinance failed to give the ordinary citizen adequate notice of what constituted the prohibited conduct – loitering. The ordinance defined “loitering” as “to remain in any one place with no apparent purpose.”⁴⁵ The vagueness the Court found was not uncertainty as to the normal meaning of “loitering” but to the ordinance’s definition of that term. The court reasoned that the ordinary person would find it difficult to state an “apparent purpose” for why they were standing in a public place with a group of people. “[F]reedom to loiter for innocent purposes,” the court reiterated, is part of the liberty protected by the due process clause of the fourteenth amendment.⁴⁶ The Court declined to decide whether the Chicago ordinance’s impact was a constitutionally protected liberty to support a facial challenge under the overbreadth doctrine.

- **Clark v. City of Cincinnati, No. 1-95-448 (S.D. Ohio Oct. 25, 1995).**

⁴⁵ 528 U.S. at 51 n. 14.

Homeless persons and advocates challenged two City of Cincinnati ordinances prohibiting sitting or lying on sidewalks and certain types of solicitation on First and Fourteenth Amendment grounds. On or about May 26, 1998, U.S. District Court Magistrate Judge Jack Sherman, Jr., of the Southern District of Ohio, struck down, on First Amendment grounds, the ordinances meant to criminalize certain actions by homeless and low-income individuals. One ordinance made it a crime for a person to sit or lie on sidewalks in downtown Cincinnati or on the Cincinnati skywalk between the hours of 7 a.m. and 9:30 p.m. The other ordinance criminalized soliciting funds, whether by asking or through gesturing, within certain distances of some buildings, automatic teller machines and crosswalks, and in all areas after 8 p.m..

Accepting the Magistrate Judge's determination that the ordinances "likely infringe[d] upon plaintiffs' First Amendment right to freedom of speech to some degree," the U.S. District Court for the Southern District of Ohio issued a preliminary injunction enjoining the city from enforcing the ordinances, with the exception of the specific provision of the sidewalk ordinance that prohibited lying down.⁴⁷

Clark v. Community for Creative Non-Violence, 468 U.S. 288 (1984).

In 1982, the Community for Creative Non-Violence (CCNV) held a round-the-clock protest demonstration on national park property near the White House, and was granted a permit to erect a symbolic campsite but denied permission to sleep at the

⁴⁶ *Id.* at 53.

⁴⁷ *Clark v. City of Cincinnati*, No. 1-95-448 (S.D. Ohio Oct. 25, 1995)(order granting preliminary injunction in part). In light of its ruling in favor of plaintiffs on their First Amendment claim, the court did not reach a decision on plaintiffs' Fourteenth Amendment claims.

campsite. CCNV challenged the applicable Park Service Regulation as unconstitutionally vague on its face and discriminatorily enforced in violation of the protesters' rights under the First Amendment. The U.S. Supreme Court reversed the holding of the Court of Appeals for the D.C. Circuit, finding that the regulation advanced a substantial government interest unrelated to the suppression of expression and was narrowly tailored to advance that interest. The court held that even if sleeping in connection with the demonstration is expressive conduct that is protected to some degree under the First Amendment, the challenged regulation was facially neutral and constituted a reasonable time, place, and manner restriction.⁴⁸

Clements v. City of Cleveland, No. 94-CV-2074 (N.D. Ohio 1994).

In 1994, four individual plaintiffs and the Northeast Ohio Coalition for the Homeless challenged the Cleveland Police's practice of removing homeless people by coercion and force from downtown Cleveland to transport them to remote locations and abandon them.⁴⁹ Plaintiffs sought a preliminary injunction that would prohibit the practice on the grounds that it violates plaintiffs' rights under the First, Fourth, and Fourteenth Amendments to the U.S. Constitution and various provisions of the Ohio Constitution.

In February 1997, the four individuals and the Coalition settled the lawsuit. Under the terms of the settlement, the city agreed to issue a directive to the police forbidding

⁴⁸ Clark v. Community for Creative Non-Violence, 468 U.S. 288, 293-97 (1984).

them from picking up and transporting homeless people against their will; to issue a public statement that violating homeless people's rights to move around downtown Cleveland is not and will not be city policy; to pay \$9,000 to the Coalition to be used for housing, education and job training for the homeless plaintiffs; and to pay \$7,000 to cover a portion of the plaintiff's costs in bringing suit.

Davidson v. City of Tucson, 924 F. Supp. 989 (D. Ariz. 1996).

Plaintiffs sought an injunction against a Tucson resolution barring homeless encampments from city-owned property on Eighth Amendment and Equal Protection grounds. The court held that the plaintiffs did not have standing to raise a cruel and unusual punishment claim as it can only be invoked by persons convicted of crimes, and no one had been arrested under the ordinance. The court also held that plaintiffs' Equal Protection claims—that the ordinance discriminated against homeless people and that it violated their right to travel—were unlikely to succeed on the merits. The Equal Protection claim failed because the court did not consider homeless people a suspect class, and the fundamental right to travel does not include the right to ignore trespass laws or remain on property without regard to ownership.

⁴⁹ Plaintiffs' Motion for Preliminary Injunction, *Clements v. Cleveland*, No. 94-CV-2074 (N.D. Oh. Oct. 4, 1994).

- **Doucette v. City of Santa Monica, 955 F. Supp. 1192 (C.D. Cal. 1997).**

In early 1995, a class of homeless plaintiffs filed a complaint alleging that the City of Santa Monica's adoption and discriminatory enforcement of a series of ordinances to criminalize homelessness violated plaintiffs' rights under the First and Eighth Amendments. Plaintiffs also alleged violations of the Fourth Amendment's prohibition on unreasonable searches and seizures and the Fifth Amendment's prohibition of takings without just compensation. The U.S. District Court for the Central District of California denied plaintiffs' motion for summary judgment on their claim that the anti-solicitation law violated the First Amendment, and granted defendants' motion for summary judgment on that claim. The court held that the city's ordinance prohibiting "abusive solicitation" was a valid place and manner restriction, finding that it was content-neutral, narrowly tailored to meet a significant government interest, left open ample alternative channels of communication, and did not allow law enforcement officers excessive discretion in enforcement.⁵⁰ The court concluded that some of the manner restrictions imposed by the ordinance only affected conduct, not speech, and that the remaining provisions that did implicate the First Amendment were valid under the above three factor analysis.⁵¹

In February 1997, the court granted summary judgment in favor of the defendants regarding the two remaining ordinances. The court held that the plaintiffs lacked standing to challenge one of the ordinances because it was no longer being enforced. Regarding the second ordinance, which included solicitation restrictions, the court

⁵⁰ 955 F. Supp. at 1206.

⁵¹ Doucette v. Santa Monica, No 95-1136 (C.D. Cal. Sept. 30, 1996).

indicated that: (i) there was no evidence that the ordinance discriminated against speakers based on the content of their speech; (ii) the ordinance was narrowly tailored so as to achieve the significant government interest of preventing “intimidating, threatening, or harassing” conduct; (iii) sufficient “alternative channels” for communicating would still be available; and (iv) the ordinance did not place excessive discretion in the hands of law enforcement officials.⁵² Therefore, the court granted summary judgment for the defendants regarding the second ordinance.

Hershey v. City of Clearwater, 834 F.2d 937 (11th Cir. 1987).

A motorist challenged the constitutionality of Clearwater’s town ordinance prohibiting “lodg[ing] or sleep[ing] in, or about any” motor vehicle.⁵³ The U.S. Court of Appeals for the Eleventh Circuit held that the ordinance’s prohibition on sleeping in a motor vehicle was unconstitutionally vague and overbroad. In upholding the prohibition on lodging, the court found that it was a reasonable restriction within the police power of the city and gave proper notice of the conduct prohibited, and thus survived a void for vagueness challenge.⁵⁴

⁵² 955 F. Supp. at 1209.

⁵³ Hershey v. Clearwater, 834 F.2d 937, 939 (11th Cir. 1987).

⁵⁴ *Id.*

Joel v. City of Orlando, 232 F.3d 1353 (11th Cir. 2000) cert. denied 149 L.Ed.2d 480 (2001).

James Joel, a homeless person, filed suit against the City of Orlando, arguing that the city ordinance prohibiting “camping” on public property violated his rights under the Fifth, Eighth and Fourteenth amendments to the U.S. Constitution. City of Orlando police officers arrested Joel for violating Section 43.52 of the City’s Code for “camping” on public property. “Camping” under the code was defined to include “sleeping out-of-doors.” The District Court granted summary judgment in favor of the City, and Joel appealed to the Circuit Court. The Circuit Court affirmed the District Court’s decision, holding that Joel had failed to prove that the ordinance was enacted for the purpose of discriminating against the homeless.

Considering the equal protection claim, the Court held that homeless persons are not a suspect class and that sleeping out-of-doors is not a fundamental right. Therefore, the Court used the rational basis test and held that the City was pursuing a legitimate governmental purpose by promoting aesthetics, sanitation, public health and safety. Further, it rejected Joel’s argument that even if the City met the rational basis test standard, the code nonetheless violated equal protection because it was enacted to “encourage ‘discriminatory, oppressive and arbitrary enforcement’” against the homeless.⁵⁵ The Court found no such purpose behind the code.

The Court also rejected Joel’s argument that the code was impermissibly vague on its face, and as applied to him. The court held that Joel’s conduct was clearly within the scope of the code, and that the code was specific enough for a reasonable person to

⁵⁵ 232 F.3d at 1359.

understand. Further, while the court agreed that police officers would have to use discretion in deciding what constitutes prohibited conduct, it found that guidelines promulgated by the City to assist police in enforcement were sufficient to decrease the likelihood of arbitrary and discriminatory enforcement. Finally, the Court rejected Joel's argument that the City code violates his right to be free of cruel and unusual punishment. The Court stated the City of Orlando has never reached its maximum capacity in its homeless shelters and no individual is turned away; therefore, Joel had an opportunity to comply with the ordinance. The Court ruled that unlike *Pottinger v. City of Miami*⁵⁶ and *Johnson v. City of Dallas*⁵⁷, where sleeping out-of-doors was involuntary for the homeless, here it was voluntary.

- **Johnson v. City of Dallas, 61 F.3d 442 (5th Cir. 1995).**

A class of homeless plaintiffs challenged Dallas' ordinances prohibiting sleeping in public, solicitation by coercion, removal of waste from garbage receptacles, and providing for the closure of certain city property during specific hours. Plaintiffs alleged that the city's enforcement of these ordinances violated their rights under the Eighth, Fourth, and Fourteenth Amendments. Plaintiffs also claimed the city's conduct constituted wrongful (tortious) malicious abuse of process. The U.S. District Court for the Northern District of Dallas granted plaintiffs' motion for a preliminary injunction in part, holding that the sleeping in public prohibition violated the Eighth Amendment

⁵⁶ 810 F. Supp. 1551 (S.D. Fla. 1992), *remanded for limited purpose*, 40 F.3d 1155 (11th Cir. 1994).

⁵⁷ 860 F. Supp. 344, 350 (N.D. Tex. 1994), *rev'd on other grounds*, 61 F.3d 442 (5th Cir. 1995).

because it imposed punishment on plaintiffs for their status as homeless people. Nevertheless in its ruling on the motion for a preliminary injunction, the court, in dicta, rejected plaintiffs' other claims, including the Equal Protection claims, finding that the challenged ordinances did not impinge on plaintiffs' right to travel, homeless people do not constitute a suspect or quasi-suspect class, and the laws were rationally related to a legitimate state interest.⁵⁸

On appeal, the Fifth Circuit reversed the district court's order, vacated the preliminary injunction, and remanded the case with instructions to dismiss plaintiffs' Eighth Amendment claims for lack of standing. The court held that the Constitution's prohibition on cruel and unusual punishment applies only after conviction for a criminal offense, and, on the record before it—compiled prior to the district court's certification of the action as a class action—there was no apparent evidence that plaintiffs had actually been convicted of sleeping in public as opposed to merely being cited or fined.⁵⁹ The District Court did not dismiss the case as ordered by the Fifth Circuit. Defendants then filed a motion for summary judgment, which was denied.

Defendants next filed a petition for a Writ of Mandamus asking the Fifth Circuit to order the district court to dismiss the Eighth Amendment claim. Without seeking a response from plaintiffs, the Fifth Circuit issued the writ ordering the district court to dismiss the entire case. The district court dismissed the case as ordered. Plaintiffs filed a motion for reconsideration with the Fifth Circuit. As the thirty-day deadline for filing a

⁵⁸ Johnson v. City of Dallas, 860 F. Supp. 344 (N.D. Tex. 1994)(order granting preliminary injunction in part), *rev'd on other grounds*, 61 F.3d 4451 (5th Cir. 1995).

⁵⁹ 61 F.3d at 445.

notice of appeal for the dismissal approached, the Fifth Circuit still had not ruled on the motion for reconsideration. Therefore, plaintiffs filed a notice of appeal of dismissal to the Fifth Circuit. The Fifth Circuit then entered a modified writ ordering the district court to dismiss the Eighth Amendment claim only.

On April 24, 2001, the trial court granted Defendants' motion to dismiss the remaining claims, in addition to the Eighth Amendment claim.⁶⁰ The court ruled there could be no violation of the Fourth Amendment where Plaintiffs failed to establish they were ever actually arrested for sleeping in public.⁶¹ The court did not address plaintiffs' arguments attacking the vagueness of the Ordinances. Instead, the court described the issue before it "a simple one" and ruled that because plaintiffs failed to present any evidence of their arrest, probable cause is factually uncontested and the arrests presumptively constitutional.⁶² Therefore, the court dismissed the case.

Joyce v. City and County of San Francisco, 87 F.3d 1320 (9th Cir. 1996).

In 1993, plaintiffs filed suit against the City of San Francisco challenging the "Matrix" program, San Francisco's official policy of vigorously enforcing a set of ordinances against homeless people. The U.S. District Court for the Northern District of California denied plaintiffs' motion for a preliminary injunction on the ground that the proposed injunction lacked specificity, would lead to enforcement problems, and that plaintiffs were unlikely to succeed on the merits. The court rejected plaintiffs' claim that

⁶⁰ No. 3:94-CV-00991-X (N.D. Tex. Apr. 24, 2001).

⁶¹ *Id.* at 4.

⁶² *Id.*

the Matrix program punished them for their status in violation of the Eighth Amendment, finding that homelessness is not a status, and that the Matrix program targeted particular behavior. The court also rejected plaintiffs' claims alleging violations of their right to equal protection, due process, and their right to travel, as well as plaintiffs' vagueness



and overbreadth challenges.⁶³ In 1995, the district court granted defendants' motion for summary judgment.⁶⁴

On

appeal, the U.S. Court of Appeals for the Ninth Circuit held, over plaintiffs' objections, that the case was moot because, under its new mayoral administration, the city had eliminated the official Matrix policy, dismissed numerous citations and warrants issued to homeless people under Matrix, and was unlikely to resume the program.⁶⁵

⁶³ Joyce v. City and County of San Francisco, 846 F. Supp. 843 (N.D. Cal. 1994)(order denying preliminary injunction).

⁶⁴ No. C-93-4149 (N.D. Cal. Aug. 18, 1995).

⁶⁵ 87 F.3d 1320 (9th Cir. 1996).

Love v. City of Chicago, No. 96-C-0396, 1998 U.S. Dist. LEXIS 1386 (N.D. Ill. Feb. 5, 1998).

Alleging violations of their Fourth, Fifth, and Fourteenth Amendment rights, a group of homeless plaintiffs challenged Chicago's policy and practice of seizing and destroying the personal property of homeless people in the course of cleaning particular areas of the city. After the city made some of plaintiffs' requested modifications to the challenged procedures, the U.S. District Court for the Northern District of Illinois denied plaintiffs' motion for a preliminary injunction, finding that the city's practice was reasonable and did not violate plaintiff's rights.⁶⁶

On March 11, 1997, plaintiffs sought to certify a class of homeless persons whose possessions were destroyed due to the city's off-street cleaning program. The court held that plaintiffs had satisfied all requirements for certification, and granted plaintiffs' class certification motion.

In December 1997, the city discarded the possessions of homeless individuals despite the fact that the possessions had been stored in "safe areas" as allowed by the Temporary Procedures. This action prompted plaintiffs to bring a renewed motion for a preliminary injunction claiming that the procedures violated plaintiffs' Fourth, Fifth and Fourteenth Amendment rights. The amount of possessions were more numerous than usual owing to Thanksgiving charity donations, and were discarded along with others that had fallen off the safe areas and obstructed roadways.

⁶⁶ Love v. City of Chicago, No. 96-C-0396 (N.D. Ill. Oct. 10, 1996).

While finding that the city violated its own procedures, the court was unwilling to require sanitation workers to sort through possessions of homeless people for reasons of sanitation and impracticability, stating that the homeless have the burden of separating and moving those items they deem valuable. Specifically, the court found that the program did not violate Fourth Amendment as it was reasonable, minimally intrusive and effective in preserving possessions of the homeless. The court stated that property normally taken by the city under the program is considered abandoned. The court ruled, however, that losses of possessions that had been placed in safe areas and subsequently discarded must be compensated. But as plaintiffs had not yet attempted to recover any compensation, any action was premature. Finally, the court held that the city adequately provided notice to the homeless through its practice of posting signs in the area, having city employees give oral notice a day before cleaning, and a second oral notification minutes before cleaning.

Metropolitan Council Inc. v. Safir, 99 F. Supp. 2d 438 (S.D.N.Y. 2000).

Plaintiff, a tenants' advocacy organization, filed suit to enjoin the city from preventing vigil participants who were protesting city rent increases from lying and sleeping on city sidewalks. The city took the position that it had authority to forbid all sleeping on city sidewalks because of the interest in safeguarding sleeping persons from the dangers of public places and keeping the sidewalks clear of obstructions. The court granted the preliminary injunction ruling that the First Amendment to the U.S. Constitution does not allow the city to prevent an orderly political protest from using public sleeping as a symbolic expression. The Court held a statute that bans all public

sleeping in any manner on public sidewalks is overbroad. However, the Court did not maintain that the city could never regulate “disorderly public sleeping.”⁶⁷ On that issue, “the Court expresse[d] no opinion on and erect[ed] no bar to the City’s prosecution for disorderly conduct of persons who are vulnerable and/or risk creating obstructions when they sleep prone on a City sidewalk.”⁶⁸

- **Patton v. City of Baltimore, No. S-93-2389, (D. Md. Sept. 14, 1994).**

Plaintiffs filed an action in federal court against the City of Baltimore, the Downtown Management Authority, and the Downtown Partnership to prevent the continued arrest and harassment of homeless individuals engaged in ordinary and essential daily activities in public, such as sleeping, sitting, and meeting with friends, as well as begging. In its ruling on plaintiffs’ motion for a preliminary injunction, the court struck down the city’s anti-aggressive panhandling ordinance, holding that it violated the Fourteenth Amendment’s Equal Protection Clause because it unlawfully discriminated between solicitation for charity and other types of solicitation. However, the court also found that the ordinance was narrowly tailored to meet a compelling state interest in protecting citizens and promoting tourism and thus did not violate the First Amendment. The court dismissed plaintiffs’ claims alleging violations of their rights to privacy, freedom from cruel and unusual punishment, freedom of association, freedom from

⁶⁷ 99 F. Supp. 2d at 439.

⁶⁸ *Id.*

unreasonable search and seizure, and due process; and refrained from deciding whether there is a right to freedom of intrastate movement.⁶⁹

In September 1994, the parties reached a settlement agreement in which the city was to amend its panhandling ordinance to reflect that panhandling is protected speech and that persons are allowed to remain in public places unless they are violating other laws. The city also agreed to repeal a park solicitation rule, inform all officers and employees of these changes, adopt policies with respect to homeless people and panhandlers, train officers, notify the public, and monitor compliance.⁷⁰

Pottinger v. City of Miami, 76 F.3d 1154 (11th Cir. 1996).

A class of homeless plaintiffs challenged Miami's policy of arresting homeless people for conduct such as sleeping, eating, and congregating in public, and of confiscating and destroying their belongings. At trial, the U.S. District Court for the Southern District of Florida found that some 6000 people in Miami were homeless, that there were fewer than 700 shelter spaces, and that plaintiffs were homeless involuntarily. The court found that the criminalization of essential acts performed in public when there was no alternative violated the plaintiffs' rights to travel and due process under the Fourteenth Amendment, and right to be free from cruel and unusual punishment under the Eighth Amendment. In addition, the court found that the city's actions violated plaintiffs' rights under the Fourth Amendment. The court ordered the city to establish

⁶⁹ Patton v. City of Baltimore, No. S-93-2389 (D. Md. Aug. 19, 1994).

⁷⁰ Settlement Agreement, Patton v. City of Baltimore, No. S-93-2389 (D. Md. Sept. 14, 1994).

“safe zones” where homeless people could pursue harmless daily activities without fear of arrest.⁷¹

On appeal, the Eleventh Circuit remanded the case to the district court for the limited purpose of clarifying the injunction and considering whether it should be modified, since the “safe zones” were not operating as the district court envisioned.⁷² On remand, the district court modified its injunction, enjoining the city from arresting homeless persons until the city established two safe zones.⁷³ In February 1996 the Eleventh Circuit referred the case for mediation.⁷⁴

The parties negotiated a settlement during the court-ordered mediation process. The city agreed to implement various forms of training for its law enforcement officers for the purpose of sensitizing them to the unique struggle and circumstances of homeless persons and to ensure that their legal rights shall be fully respected. Additionally, the city instituted a law enforcement protocol to help protect the rights of homeless people who have encounters with police officers. The city also agreed to set up a compensation fund of \$600,000 to compensate aggrieved members of the community.

Project Share v. City of Philadelphia, No. 93-CV-6003 (E.D. Pa. 1993).

⁷¹ Pottinger v. City of Miami, 810 F. Supp. 1551, 1584 (S.D. Fla. 1992).

⁷² 40 F.3d 1155 (11th Cir. 1994).

⁷³ No. 88-2406 (S.D. Fla. Apr. 7, 1995).

⁷⁴ 76 F.3d 1154 (11th Cir. 1996).

Plaintiffs sought a temporary restraining order and permanent injunction to prevent the City of Philadelphia from carrying out a proposed plan to seize, arrest, and remove homeless persons from concourses in the center city in the absence of alternative shelter. Plaintiffs alleged that the city's actions would violate their rights under the Fourth, Eighth, and Fourteenth amendments.⁷⁵ The motion was voluntarily dismissed after the city agreed to find shelter for the homeless people who were likely to be affected by the proposed plan.

Richardson v. City of Atlanta, (N.D. Ga. Aug. 28, 1997).

Nine Atlanta homeless people filed a federal lawsuit asking a judge to declare unconstitutional Atlanta's "urban camping" ordinance, which makes it a crime to sleep or lie down on public grounds.⁷⁶ The city ordinance, which had been in effect more than six months, made it a crime to use any public place, including city parks and sidewalks, for living accommodations or for camping. It also made it illegal "to sleep, to lie down" or store personal property in any park owned by the city.⁷⁷ Anyone found guilty of the crime could be imprisoned up to six months. Among those arrested were Charles Richardson, who was lying on a bench waiting for a soup kitchen to open and Christopher Parks, a homeless, seven-year employee at a restaurant, who missed one week of work sitting in jail after he was arrested for "urban camping" outside the city's Traffic Court building.

⁷⁵ Plaintiffs' Initial Memorandum in Support of Restraining Order, *Project Share v. City of Philadelphia*, No. 93-CV-6003 (E.D. Pa. 1993).

⁷⁶ Atlanta, Ga., Ordinance 106-12 (November, 1996).

⁷⁷ *Id.*

The lawsuit stated that the police violated the Fourteenth Amendment's equal protection clause by targeting homeless people when enforcing the law, saying it constitutes punishment for individuals solely because they are homeless. The lawsuit also contended that city police were violating the rights of the homeless by either leaving or disposing of their belongings after they are arrested. The lawsuit settled and the plaintiffs received damages. As part of the settlement, the city has revised the ordinance to significantly limit the scope. Atlanta police officers must also now designate on arrest records the housing status of all detainees, in order to more effectively track patterns of discriminatory arrests of homeless people. Finally, police officers will undergo training regarding the issues and challenges those that face those who are homeless.

- **Roulette v. City of Seattle, 78 F.3d 1425 (9th Cir. 1996).**

Homeless residents of Seattle challenged the city's ordinances that prohibited sitting or lying on downtown sidewalks during certain hours and aggressive begging. Plaintiffs alleged violations of their rights of freedom of speech, due process, equal protection, and the right to travel. The district court granted the city's motion for summary judgment, rejecting plaintiffs' vagueness, substantive due process, equal protection, right to travel, and First Amendment challenges to the sidewalk ordinance. In addition, the court also dismissed plaintiffs' challenge to the aggressive begging ordinance on vagueness and overbreadth grounds. However, the court did limit the construction of the ordinance to prohibit only threats that would make a reasonable

person fearful of harm, and struck down the section of the ordinance that listed criteria for determining whether or not there was an intent to intimidate.⁷⁸

On appeal, the Ninth Circuit affirmed the district court's decision, upholding the sidewalk ordinance. The Court of Appeals rejected plaintiffs' facial substantive due process and First Amendment challenges, holding that sitting or lying on the sidewalk is not integral to, or commonly associated with, expression.⁷⁹ In dissent, Judge Pregerson asserted that Seattle's time, place and manner restrictions on expressive content are not narrowly tailored to serve a significant government interest and do not leave open ample alternative channels of expression, and thus constitute a violation of plaintiffs' First Amendment rights.⁸⁰ The Ninth Circuit denied plaintiffs' petition for rehearing *en banc*.

Stone v. Agnos, 960 F.2d 893 (9th Cir. 1992).

A homeless man arrested for lodging in public alleged that his arrest violated his First Amendment rights and the destruction of his property following his arrest violated his Fourteenth Amendment right to due process. The court held that because sleeping is not protected under the First Amendment, there was no violation. The court also rejected

⁷⁸ *Roulette v. City of Seattle*, 850 F. Supp. 1442 (W.D.Wash. 1994), *aff'd* 78 F.3d 1425 (9th Cir. 1996).

⁷⁹ 78 F.3d 1425, amended, 97 F.3d 300 (9th Cir. 1996). Plaintiffs did not appeal the district court's ruling on the aggressive begging ordinance.

⁸⁰ 97 F.3d at 308 (Pregerson, J., dissenting).

the plaintiff's due process claim on the ground that he did not show that the police had acted unreasonably.⁸¹

Streetwatch v. National R.R. Passenger Corp., 875 F. Supp. 1055 (S.D.N.Y. 1995).

Plaintiffs challenged the Amtrak Police's policy of arresting or ejecting persons who appeared to be homeless or appeared to be loitering in the public areas of Penn Station in the absence of evidence that such persons had committed or were committing crimes. The District Court issued a preliminary injunction prohibiting Amtrak police from continuing to engage in the practice, finding that in light of Amtrak's invitation to the public, the practice implicated the Due Process Clause. The court held that Amtrak's Rules of Conduct were void for vagueness, and that their enforcement impinged on plaintiffs' right to freedom of movement and due process.⁸²

Whiting v. Town of Westerly, 942 F.2d 18 (1st Cir. 1991).

Two non-homeless out-of-state residents challenged the constitutionality of two Westerly, Rhode Island town ordinances banning sleeping outdoors on either public property or private property of another on overbreadth, vagueness, and equal protection grounds. The U.S. Court of Appeals for the First Circuit affirmed the district court's finding that—absent expressive activity possibly covered by the First Amendment—sleeping in public is not constitutionally protected, neither ordinance was vague or

⁸¹ Stone v. Agnos, 960 F.2d 893 (9th Cir. 1992).

⁸² Streetwatch v. National R.R. Passenger Corp., 875 F. Supp. 1055 (S.D.N.Y. 1995).

overbroad as applied to plaintiffs' conduct, and enforcement procedures did not violate the equal protection rights of non-residents of Westerly.⁸³

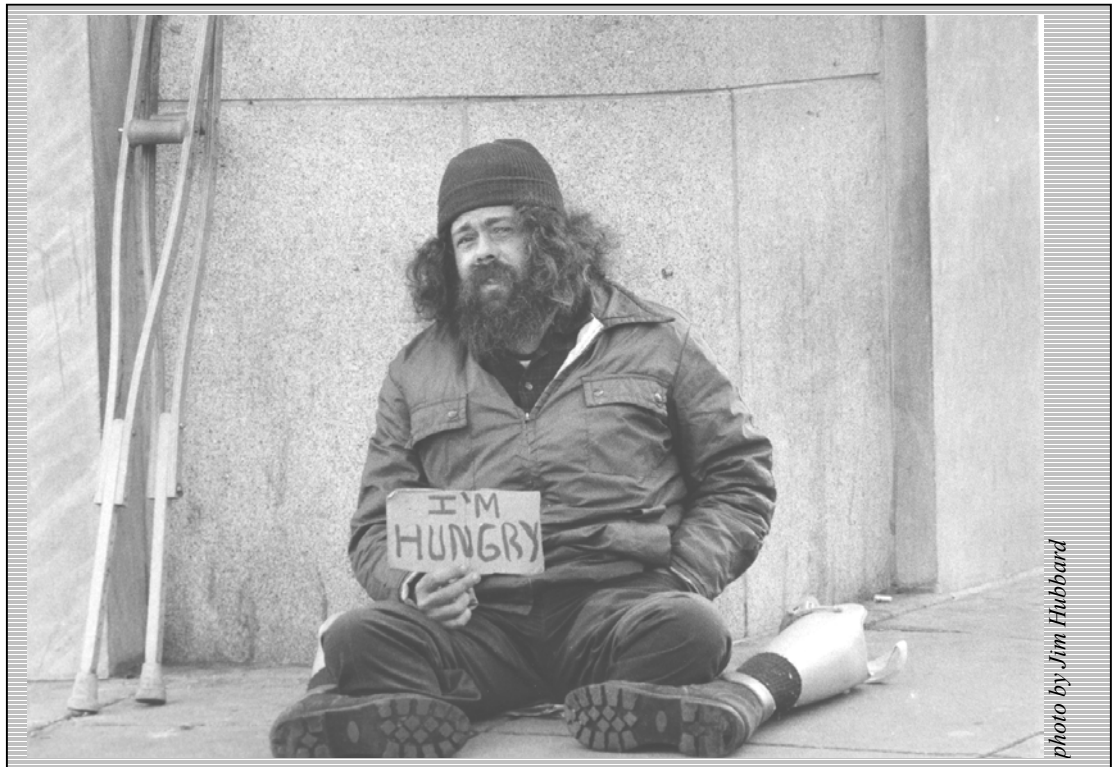
Williams v. City of Atlanta, No. 95-8752 (11th Cir. 1996).

A formerly homeless man in Atlanta challenged the constitutionality of Atlanta's ordinance that prohibited "remaining on any property which is primarily used as a parking lot"⁸⁴ under the First, Fourth, Ninth, and Fourteenth Amendments and various provisions of the Georgia Constitution. The U.S. District Court for the Northern District of Georgia granted Defendant City of Atlanta's motion for summary judgment, holding that the plaintiff lacked standing to challenge the ordinance since he was no longer homeless and thus no longer among the group of people vulnerable to arrest under it.⁸⁵ Plaintiff appealed to the U.S. Court of Appeals for the Eleventh Circuit. However, while the appeal was pending, the city revised the challenged ordinance. The plaintiff still opposed one section of the revised ordinance, but that section was subsequently struck down in the later case, *Atchison v. City of Atlanta* (see below), and *Williams v. City of Atlanta* was dismissed in August 1996.

⁸³ Whiting v. Town of Westerly, 942 F.2d 18 (1st Cir. 1991).

⁸⁴ ATLANTA, GA., CODE § 17-1007 (1994).

⁸⁵ Williams v. City of Atlanta, No. 1:94-CV-2018 (N.D. Ga. Mar. 28, 1995).



State Court Cases

City of Seattle v. McConahy, 86 Wn. App. 557, 937 P.2d 1133 (1997).

Plaintiffs challenged constitutionality of an ordinance prohibiting sitting on sidewalks in Seattle's downtown area during business hours. (Note: this case concerns the same statute as *Roulette v. City of Seattle*) plaintiffs claimed that the ordinance violated their substantive due process and free expression rights and infringed upon their right to travel. They also alleged the ordinance was contrary to the Privileges and Immunities Clause of the Washington State Constitution and Washington's ban on discriminating against persons with disabilities. In rejecting plaintiffs' arguments, the court held that the ordinance furthered the legitimate police power interest of promoting pedestrians' safety and reducing crime and infringed only minimally upon the freedoms

of movement and expression. The court reasoned that sitting is mere conduct and has no inherent expressive value and that the Privileges and Immunities Clause was not implicated because homelessness was not a protected class. Further, the right to travel was not implicated by the statute as the statute did not exact a penalty for moving within a state or prohibiting homeless people from living on streets. In *City of Seattle v. McConahy*, 133 Wn. 2d 1018, 948 P.2d 388 (1997), the Supreme Court of Washington denied a petition for review of this Appellate Court decision.

In re Eichorn, 69 Cal. App. 4th 382, 81 Cal. Rptr. 2d 535 (2000).

Police officers arrested James Eichorn for sleeping in a sleeping bag on the ground outside a county office building in the civic center. Eichorn was convicted of violating a City of Santa Ana, California ordinance that banned sleeping in certain public areas. Prior to Eichorn's trial, the California Supreme Court found the ordinance to be facially neutral and therefore constitutional. At trial, Eichorn had to argue the necessity defense and he attempted to prove that on the night of his arrest, there were no shelter beds available. The court found Eichorn had not made a sufficient enough showing to allow a jury to consider the defense. After objecting to the judge's ruling, Eichorn's lawyer decided to go forward without a jury on the constitutionality of the ordinance. The trial judge convicted Eichorn of violating the city ordinance and Eichorn lost an appeal to the Appellate Department. Eichorn then filed a writ of habeas corpus. In the habeas decision, the Appeals Court found Eichorn was entitled to raise the necessity defense, granted the writ and remanded to the municipal court with instructions to set aside judgment of conviction.

State v. Folks, No. 96-19569 MM (Fla. Cir. Ct., Duval County, Nov. 21, 1996).

The City of Jacksonville is currently appealing a ruling by a Florida county court in which the court invalidated a city ordinance prohibiting individuals from “sleep[ing], lodg[ing] or lying on any public or semipublic area.”⁸⁶ The ordinance requires that prior to an arrest or charge police must first warn the individual that his conduct violates the ordinance, notify him of at least one shelter the officer believes to be accessible to him, and give him a reasonable opportunity to go to the shelter. In dismissing a charge based on the ordinance against Warren Folks, the County court determined that the challenged section of the ordinance violated both the Florida and U.S. Constitutions.

The court found the ordinance to be overbroad as well as unconstitutionally vague in that it did not specify exactly what must be done to satisfy its requirements. The court opined that “if in fact the ordinance requires a person to remain in a shelter for an unspecified period of time or be arrested, this amounts to incarceration in the shelter without a violation of law having been committed.”⁸⁷ In addition, the court found that the ordinance violated defendant’s rights to be free from cruel and unusual punishment by punishing innocent conduct, and his right to due process in that it allowed for arbitrary enforcement. The appeal is currently pending in a Florida State Circuit Court.

State v. Wicks, Nos. 2711742 & 2711743, (Ore. Cir. Ct. Multnomah County 2000).

⁸⁶ JACKSONVILLE, FLA., Ordinance Code § 614.138(h) (1994).

⁸⁷ State v. Folks. No. 96-19569 MM (Fla-Cir. Ct., Duval County, Nov. 21, 1996)

Police officers arrested the Wicks, a homeless father and his son, for violating Portland City Code, Title 14, 14.08.250, which prohibits “camping” in any place where the public has access or under any bridgeway or viaduct. The Wicks claimed the ordinance violated their right to be free of cruel and unusual punishment, the right to equal protection under the fourteenth amendment, and their right to travel. The court agreed and found the ordinance as applied to the homeless violated Article I § 16 of the Oregon Constitution and the Eighth Amendment to the U.S. Constitution. The court reasoned that one must not confuse “status” with an immutable characteristic such as age or gender as the State of Oregon did in its arguments.

The court held that, although certain decisions a homeless person makes may be voluntary, these decisions do not strip away the status of being homeless. Citing the Supreme Court’s decision in *Robinson v. California*, 370 U.S. 660 (1962) holding that drug addiction is a status, the Wicks court held that homelessness is also a status. Furthermore, the court determined it impossible to separate the status of homelessness and the necessary acts that go along with that status, such as sleeping and eating in public when those are “the only locations available to them.”⁸⁸ Because the ordinance punished necessary behavior due to a person’s status, the court reasoned it was cruel and unusual. Moreover, the court found the ordinance in violation of both equal protection and the right to travel on the basis that the ordinance denied the homeless the fundamental right to travel. The court rejected the state’s argument that it had a legitimate state interest in protecting the health and safety of its citizens, noting that there were less restrictive means available to address these interests, such as providing sufficient housing for the

⁸⁸ *State v. Wicks*, No. Z711742 & Z711743 (Or. Sept. 27, 2000).

homeless and adequate services. According to a newspaper report, the state attorney general's office has dismissed its appeal, citing its inability to appeal from an order of acquittal.⁸⁹

Tobe v. City of Santa Ana, 9 Cal. 4th 1069, 892 P.2d 1145 (1995).

Homeless persons in Santa Ana, California filed suit in state court against the City of Santa Ana challenging the constitutionality of a city ordinance prohibiting (1) the use of “camp paraphernalia”—including cots, sleeping bags, or non-designated cooking facilities; (2) pitching, occupying, or using “camp facilities” including tents, huts, or temporary shelters; (3) storing personal property on any public land within the city; or (4) living temporarily in a “camp facility” or outdoors in public within Santa Ana. The California Court of Appeals overturned the ruling of the lower court in which the lower court upheld the ordinances with the exception of the provision prohibiting living temporarily in a camp facility or outdoors. The Court of Appeal held that the anti-camping ordinance, violates Appellants’ right to travel, which “includes the ‘right to live or stay where one will,’” and, by punishing them for their status as homeless people, violates their right to be free from cruel and unusual punishment.⁹⁰ The court also held that the ordinance was unconstitutionally vague and overbroad.⁹¹

In 1995, the California Supreme Court reversed the judgment of the court of Appeals. The court held that the challenged ordinance, which may have an incidental

⁸⁹ Wade Nkrumah, *Portland Anti-Camping Ordinance in Legal Limbo*, THE OREGONIAN, Oct. 19, 2001, <<http://www.oregonlive.com/portland/oregonian>>.

⁹⁰ 9 Cal. 4th at 1103, 892 P.2d at 1165.

⁹¹ Tobe v. City of Santa Ana, 22 Cal App. 4th 228, 27 Cal. Rptr. 2d 386 (1994).

impact on travel, does not violate the right to travel as it has a purpose other than the restriction of travel and does not discriminate among classes of persons by penalizing the exercise of the right to travel for some. In addition, the court found that the ordinance penalized particular conduct as opposed to status and thus did not violate plaintiffs' rights under the Eighth Amendment, and was not unconstitutionally vague or overbroad.⁹²

B. Challenges to Anti-Begging, Anti-Soliciting and Anti-Peddling Laws

Federal Court Cases

American Civil Liberties Union of Nevada v. City of Las Vegas, 13 F. Supp. 2d 1064 (D. Nev. 1998).

Plaintiffs, including the Civil Liberties Union of Nevada, brought an action against, among other defendants, the City of Nevada and Fremont Street Limited Liability Corporation ("FSLLC"), challenging prohibitions on distributing written material and solicitation of funds, and restrictions on educational and protest activities at an open mall area. Plaintiff's sought a preliminary injunction against the enforcement of several Las Vegas Municipal Code sections and rules and policies of the FSLLC. The court granted the preliminary injunction barring enforcement of a section of the Las

⁹² 9 Cal. 4th 1069, 892 P.2d 1145 (1995).

Vegas Municipal Code prohibiting leafleting and a “standardless licensing scheme,” but did not grant a preliminary injunction regarding enforcement of a second section regarding solicitation.⁹³ The court granted defendant’s motion for summary judgment regarding plaintiff’s challenge to the anti-solicitation ordinance. The court found that the ban on solicitation did not violate the first amendment because (i) the mall in question was a non-public forum, (ii) the ban on solicitation was viewpoint neutral and (iii) the ban was reasonable considering the commercial purposes of the mall.

Atchison v. City of Atlanta, No 1:96-CV-1430 (N.D. Ga. July 17, 1996).

Seven homeless individuals filed suit in federal court one month prior to the opening of the Olympic Games in Atlanta challenging Atlanta’s ordinances prohibiting aggressive panhandling and loitering on parking lots, its enforcement of Georgia’s criminal trespass law, and unlawful police harassment under 42 U.S.C. § 1983. The U.S. District Court for the Northern District of Georgia granted a temporary restraining order barring enforcement of one provision of the parking lot ordinance, finding that the plaintiffs were likely to succeed on the merits of their claim that the provision was unconstitutionally vague.⁹⁴ In its ruling on plaintiffs’ motion for a preliminary injunction, the court held that the provision of the anti-aggressive panhandling ordinance that prohibited “continuing to request, beg or solicit alms in close proximity to the individual addressed after the person to whom the request is directed has made a negative response”

⁹³ 13 F. Supp. 2d at 1068.

⁹⁴ *Atchison v. City of Atlanta*, No 1:96-CV-1430 (N.D. Ga. June 21, 1996). The court later held that the plaintiffs lacked standing to challenge this ordinance.

was unconstitutionally vague, and granted a preliminary injunction prohibiting enforcement of that specific provision. The court found that with the above exception, the ordinance “appears narrowly tailored to address the significant interests while affording panhandlers ample channels with which to communicate their message.”⁹⁵ The court also rejected the plaintiffs’ equal protection claim, holding that they failed to show a city policy of violating their rights or failing to train police officers.⁹⁶

Before the appeal was heard, the case was settled. As part of the settlement, the city agreed to redraft the panhandling and parking lot ordinances and require various forms of training for its law enforcement officers for the purpose of sensitizing them to the unique struggle and circumstances of homeless persons and to ensure that their legal rights be fully respected.

Blair v. Shanahan, 919 F. Supp. 1361 (N.D. Cal. 1996).

In 1991, plaintiff challenged a California state statute that prohibited “accost[ing] other persons in any public place or in any place open to the public for the purpose of begging or soliciting alms.”⁹⁷ The U.S. District Court for the Northern District of California held the California state anti-begging statute to be unconstitutional on its face, concluding that the statute violated the First Amendment because it was content-based, was aimed specifically at protected speech in a public forum, and was not narrowly

⁹⁵ No 1:96-CV-1430, slip. op. at 17 (N.D. Cal. July 17, 1996).

⁹⁶ *Id.*

⁹⁷ *Blair v. Shanahan*, 775 F. Supp. 1315, 1327 (N.D. Cal. 1991), *aff’d in part and dismissed in part on other grounds*, 38 F.3d 1514 (9th Cir. 1994).

tailored to meet a compelling state interest. The court also held that the statute violated the plaintiff's right to equal protection under the Fourteenth Amendment since it distinguished between lawful and unlawful conduct based on the content of the communication at issue.⁹⁸

The city settled its case with the plaintiff for damages, but then, joined by the State, moved to have the declaratory judgment modified or vacated. The district court rejected this motion.⁹⁹ On appeal, finding that the city had mooted its own appeal by settling the case, the Ninth Circuit refused to order the district court to vacate the declaratory judgment but remanded the case to the district court for a decision on whether to do so.¹⁰⁰ The district court then vacated its declaratory judgment on the ground that in light of the specific circumstances of the case, it would be inequitable to the state to permit the order invalidating a state statute to stand without the possibility of intervention by the state and appellate review of the constitutional issue involved.¹⁰¹

Chad v. City of Ft. Lauderdale, 66 F. Supp. 2d 1242 (S.D. Fla. 1998).

Plaintiffs challenged enforcement of Ft. Lauderdale's ordinance prohibiting soliciting, begging, or panhandling on the city's beach and adjacent sidewalk. The district court denied plaintiffs' motion for a preliminary injunction, and both parties filed motions for summary judgment. The district court granted the City's motion and denied

⁹⁸ Blair v. Shanahan, 775 F. Supp. 1315 (N.D. Cal. 1991).

⁹⁹ 795 F. Supp. 309 (N.D. Cal. 1992).

¹⁰⁰ 38 F.3d 1514, 1519-20 (9th Cir. 1994).

¹⁰¹ 919 F. Supp. 1361 (N.D. Cal. 1996).

plaintiffs' motion. Plaintiffs argued the ordinance violated the Fourteenth Amendment to the U.S. Constitution because it unconstitutionally limited free speech by prohibiting speech "asking for" something. Plaintiffs argued this prohibition was vague and therefore unconstitutional. The court rejected this argument, noting that the "asking for" behavior the statute covers is sufficiently clear as to what is being prohibited. Plaintiffs also argued the ordinance was overbroad because begging, panhandling, and solicitation are forms of protected expression. The court also rejected this contention holding that although the ordinance was broad enough to include protected speech, it satisfied the reasonable time, place, and manner restrictions on such speech, the ordinance was content neutral, and was narrowly tailored to promote the significant governmental interest of promoting a safe, healthful, and aesthetic environment.

Community for Creative Non-Violence v. Turner, 893 F.2d 1387 (D.C. Cir. 1990).

Community for Creative Non-Violence (CCNV) members challenged the constitutionality of Washington Metropolitan Area Transit Authority (WMATA) regulations requiring individuals to obtain permits to engage in free speech activities on WMATA property, permitting suspension of permits in emergencies, requiring that the speech be in a "conversational tone," and restricting the number of individuals who may engage in free speech at each station.¹⁰² The U.S. Court of Appeals for the D.C. Circuit affirmed the trial court ruling that struck down all of the provisions, finding that the above-ground free areas of the stations were public fora. The D.C. Circuit found that the

¹⁰² 893 F.2d at 1389.

permit requirement was an impermissible prior restraint, the suspension provision was not severable from the permit provision, the “conversational tone” provision was unconstitutionally vague, and the limit on the number of individuals burdened more speech than was necessary.¹⁰³

Greater Cincinnati Coalition for the Homeless v. City of Cincinnati, 56 F.3d 710 (6th Cir. 1995).

Plaintiffs, which included the Greater Cincinnati Coalition for the Homeless (the “Coalition”) and a homeless man, originally filed a complaint against the City of Cincinnati in District Court seeking injunctive, declaratory and monetary relief for damages allegedly suffered as a result of a municipal ordinance which prohibited people from “recklessly interfere[ing] with pedestrian or vehicular traffic in a public place.”¹⁰⁴ Activities that were considered reckless interference included walking, sitting, lying down and/or touching another person in a public place so as to interfere with the passage of any person or vehicle, or asking for money or anything else of value in a way that would “alarm” or “coerce” a reasonable person.¹⁰⁵ The District Court found that the plaintiffs lacked standing to challenge the ordinance and the plaintiffs appealed. The Court of Appeals for the Sixth Circuit found that neither the Coalition nor the homeless man had demonstrated a “direct injury-in-fact” or a threatened injury that could potentially result from enforcement of the

¹⁰³ *Community for Creative Non-Violence v. Turner*, 893 F.2d 1387 (D.C. Cir. 1990).

¹⁰⁴ 56 F.3d at 713.

¹⁰⁵ *Id.*

ordinance, and that therefore plaintiffs did not have standing to challenge the ordinance.¹⁰⁶ The Court of Appeals, however, did indicate



that other potential challenges that demonstrated that the ordinance violated plaintiff's protected First Amendment rights under the U.S. Constitution might be successful.

Gresham v. Peterson, 225 F.3d 899 (7th Cir. 2000).

Jimmy Gresham, a homeless person, challenged an Indianapolis, Indiana ordinance that prohibited panhandling in public places from sunset to sunrise and also prohibited “aggressive panhandling.” Gresham claimed the city ordinance violated his First Amendment right to free speech and his Fourteenth Amendment right to due process. The city argued the ordinance was a response to the public safety threat that panhandlers cause. The District Court granted the city’s motion for summary judgment and Gresham appealed to the Seventh Circuit. The Circuit Court affirmed the District Court’s opinion. The Court held Mr. Gresham’s First Amendment right was not violated simply because it forbade him to panhandle at night. It found Mr. Gresham had many other feasible alternatives available to him during the day and during the night to reach Indianapolis crowds. Furthermore, the

¹⁰⁶ *Id.* at 718.

Court affirmed the district court's opinion that a state court could not find the statute unconstitutionally vague.

Heathcott v. Las Vegas Metropolitan Police Officers, No. CV-S-93-045 (D. Nev. Mar. 3, 1994).

A homeless man challenged a Nevada state statute that prohibited loitering with the intent to beg. The district court found that the law effectively prohibited all begging, which is constitutionally protected speech, and that since the statute was not narrowly tailored to meet any compelling government interest it was constitutionally overbroad. The court also noted that there was no serious harm posed to the public by peaceful begging and that conduct that may require regulation, including fraud, intimidation, coercion, harassment, and assault, are all covered by separate statutes.¹⁰⁷

Jones v. City of Denver, No. 96-WY-1751 (D. Colo. 1996).

Four homeless individuals, along with two non-homeless individuals with an interest in the information communicated by those who beg, brought an action against the City and County of Denver, Denver Chief of Police, and two police officers challenging the constitutionality of Colorado's state law making it a crime to "loiter[] for the purpose of begging."¹⁰⁸ The parties have reached a settlement agreement in which defendants have stipulated that the law violates the Due Process Clause, and have agreed to a

¹⁰⁷ Heathcott v. City of Las Vegas, No. CV-S-93-045 (D. Nev. Mar. 3, 1994).

¹⁰⁸ CO. REVISED STAT. ANN. tit. 18, art. 9, § 112(2)(a) (West 1996).

declaratory judgment and injunction prohibiting enforcement of the law in the City of Denver. The court approved the proposed settlement agreement and the state legislature subsequently repealed the suspect language.

Loper v. New York City Police Department, 999 F.2d 699 (2d Cir. 1993).

Plaintiffs challenged the New York City Police Department's enforcement of a New York statute prohibiting "loiter[ing], remain[ing], or wander[ing] about in a public place for the purpose of begging."¹⁰⁹ The Second Circuit affirmed the district court's order granting summary judgment to plaintiffs and invalidating the statute on First Amendment grounds. The Court of Appeals held that begging constitutes expressive conduct or communicative activity for the purposes of First Amendment analysis, and that there was no compelling government interest served by prohibiting those who beg peacefully from communicating with their fellow citizens. The court further held that even if the state had such an interest, a statute banning all begging was not narrowly tailored, not content-neutral, and left open no alternative channels of communication "by which beggars can convey their messages of indigency."¹¹⁰

Los Angeles Alliance for Survival v. City of Los Angeles, 224 F.3d 1076 (9th Cir. 2000).

¹⁰⁹ 999 F.2d 701 (quoting N.Y. Penal Law §240.35(1)).

¹¹⁰ Loper v. New York City Police Department, 999 F.2d at 705.

This suit challenged the city's ordinance banning aggressive solicitation. The ACLU and co-counsel argued that the ordinance was overbroad and violated the First Amendment to the United States Constitution and the Liberty of Speech Clause of the California Constitution. The federal district court issued a preliminary injunction in October 1997. The city appealed, and requested certification of three questions to the California Supreme Court. On September 15, 1998, the Ninth Circuit issued an order requesting the California Supreme Court to certify the question of whether an ordinance regulating the time, place, and manner of solicitation of money or other thing of value, or the sale of goods or service, is content-based, for purposes of the liberty of speech clause of the California Constitution.

The California Supreme Court accepted certification and issued an opinion concluding that regulations like the ordinance should be deemed content neutral for purposes of the California Constitution. The Ninth Circuit affirmed the District Court's decision¹¹¹ that granted a preliminary injunction barring enforcement of Los Angeles Ordinance No. 171664. The Court ruled that even though, as the California Supreme Court certified, regulation of solicitation is content-neutral, Los Angeles' particular statute infringed upon the right to free speech under the U.S. Constitution, and when a statute regulating solicitation does that, it raises serious questions of hardship. The court found the "balance of hardships" tipped in favor of the appellees who would be irreparably injured without the preliminary injunction. The case ultimately settled, resulting in the removal of ordinance language that had permitted persons to order

¹¹¹ No. 97-06793 RAP (C.D. Cal. July 25, 2000).

panhandlers off property surrounding restaurants, bus stops and other places. The prohibition on solicitation within 10 feet of an ATM remains in the ordinance.

Northeast Ohio Coalition for the Homeless v. City of Cleveland, 105 F. 3d 1107 (6th Cir. 1997).

The Northeast Ohio Coalition for the Homeless, which publishes a homeless street newspaper, *The Homeless Grapevine*, and a Mosque whose members sell the Nation of Islam newspaper *The Final Call*, challenged a Cleveland city ordinance requiring distributors to apply and pay \$50 for a peddlers license in order to distribute their papers in public places. The plaintiffs filed suit in U.S. District Court in 1994 alleging that imposition of a license requirement violated their rights to freedom of speech and press. On February 3, 1997, the U.S. Court of Appeals for the Sixth Circuit reversed the district court's decision and held that the licensing requirement and fee constituted permissible time, place, and manner restriction and were sufficiently narrowly tailored to further a legitimate government interest in preventing fraudulent solicitations.

Earlier, the district court had granted plaintiff's motion for summary judgment, holding that the licensing requirement violated their rights under the U.S. and Ohio Constitutions.¹¹² Noting that pursuant to the Supreme Court's decision in *Murdock v. Pennsylvania*, 319 U.S. 105 (1943), nominal fees are allowable to cover the costs associated with permissible regulation of speech. The district court stated that the city failed to claim that the fee was designed for such a purpose. Additionally, the district court

¹¹² *Northeast Ohio Coalition for the Homeless v. City of Cleveland*, 885 F. Supp. 1029 (N.D. Ohio 1995), *rev'd on other grounds*, 105 F.3d 1107 (6th Cir. 1997).

stated that the license prevented some “speakers” from distributing their message since the fee was not tied to the peddlers ability to pay.

Plaintiffs’ petition to the Sixth Circuit for a *Rehearing En Banc* was denied in April 1997.¹¹³ Plaintiffs’ petition to the U.S. Supreme Court for a Writ of Certiorari was denied on October 20, 1997.¹¹⁴

Smith v. City of Ft. Lauderdale, 177 F.3d 954 (11th Cir. 1999).

James Dale Smith, a homeless person, challenged a Ft. Lauderdale city regulation Rule 7.5(c) that proscribes begging on a certain five-mile strip of beach and two adjacent sidewalks on behalf of himself and a class of homeless persons. Plaintiff initially brought suit in the U.S. District Court for the Southern District of Florida; that court granted summary judgment in favor of the defendant city. The Court of Appeals affirmed the District Court’s decision. The Court ruled that, although begging is a form of speech and beaches and sidewalks are public forums, the city made a determination that begging negatively affected tourism. Furthermore, since tourism is a major contributor to the city’s economy and begging can occur in other parts of the city, the court found the anti-begging ordinance “narrowly tailored to serve the City’s interest in providing a safe, pleasant environment and eliminating nuisance activity on the beach.”¹¹⁵

¹¹³ 1997 U.S. App. LEXIS 9056 (6th Cir. Apr. 10, 1997).

¹¹⁴ *Northeast Ohio Coalition for the Homeless v. City of Cleveland*, 522 U.S. 931 (1997).

¹¹⁵ 177 F.3d at 956.

Sunn v. City and County of Honolulu, 852 F. Supp. 903 (D. Haw. 1994).

Plaintiff, a street musician, was arrested nine times during 1991 and 1992 for peddling. The state court later found that the peddling ordinance did not cover Sunn's activity, and Sunn subsequently brought suit against the City and County of Honolulu and certain police officers for violation of Sunn's rights under 42 U.S.C. § 1983 and for common law false arrest. On March 4, 1994, the court granted summary judgment regarding the §1983 claim in favor of the individual officers because they had demonstrated the requirements for qualified immunity—a "reasonable officer" could have "reasonably" believed that his or her conduct was lawful in light of clearly established law and the information that the officer had at the time. The City and County of Honolulu (the "City") subsequently moved for summary judgment based on the § 1983 claims arguing that if the officers had been found to be immune from liability under the statute, vicarious liability could not attach to the city for the officer's actions. The District Court found that granting summary judgment in favor of the officers based on qualified immunity did not mean that the plaintiff did not possibly suffer a violation of his constitutional rights. The city argued that the test used to conclude that the officers had qualified immunity was the same as the test to determine if there had been probable cause for Sunn's arrests. The court indicated that the test to determine whether the officers had qualified immunity was not the same as the test for probable cause and that there were still pending issues of fact concerning probable cause. Therefore, the court concluded that the officers could potentially be found to have arrested Sunn without probable cause and the city could potentially be held liable for such a Constitutional violation. Accordingly, the city's motion for summary judgment of the § 1983 claims was denied.

Young v. New York City Transit Authority, 903 F.2d 146 (2d Cir. 1990).

Plaintiffs challenged New York City Transit Authority regulations that prohibited begging on subway cars and platforms. The Second Circuit reversed the holding of the district court and vacated the lower court's order enjoining enforcement of the regulations holding that begging, which is "much more 'conduct' than 'speech,'" is not protected by the First Amendment.¹¹⁶ The court held that even if the First Amendment did apply, the regulation was reasonable because it was content-neutral, justified by a legitimate government interest, and allowed alternative channels of communication in that it did not ban begging in locations other than the subway.¹¹⁷

State Court Cases

Benefit v. Cambridge, 424 Mass. 918, 679 N.E.2d 184 (1997).

On May 14, 1997 the Massachusetts Supreme Judicial Court invalidated a state statute that prohibited "wandering abroad and begging," or "go[ing] about...in public or private ways...for the purpose of begging or to receive alms."¹¹⁸ The court found the prohibition to be a violation of plaintiff's right to freedom of speech.

¹¹⁶ 903 F.2d at 153.

¹¹⁷ Young v. New York City Transit Authority, 903 F.2d 146 (2d Cir. 1990).

¹¹⁸ 424 Mass. at 919, 679 N.E.2d at 185.

This constitutional challenge was initiated in 1992 by the American Civil Liberties Union of Massachusetts on behalf of plaintiff Craig Benefit, a homeless man who had been arrested three times on Cambridge, MA for begging in violation of the statute. In 1996, the Superior Court of Middlesex County ruled that the law was an unconstitutional restriction on speech in violation of the plaintiff's rights to freedom of speech and equal protection of the laws under the First and Fourteenth Amendments.

On appeal, in a strongly worded unanimous opinion the state's highest court held (1) that peaceful begging involves communicative activity protected by the First Amendment, (2) that the criminal sanction imposed was an improper viewpoint-based restriction on speech in a public forum, based on the content of the message conveyed, and (3) that the statute was not constitutionally viable when subjected to strict scrutiny. The court also emphasized that the prohibition on begging not only infringes upon the right of free communication, it also suppresses "an even broader right – the right to engage fellow human beings with the hope of receiving aid and compassion."¹¹⁹ The court soundly rejected the state's argument that the statute supports a compelling government interest in preventing crime and maintaining safe streets. The Law Center filed a friend-of-the-court brief in support of the plaintiff.

City of Cleveland v. Ezell, 121 Ohio App.3d 570, 700 N.E.2d 621 (1997).

Defendants in this case, who had been soliciting sales of newspapers to motorists stopped at red lights, were charged with violating a city ordinance which prohibited

¹¹⁹ *Id.* at 926, 679 N.E.2d at 190.

individuals from “standing on the street or highway and transferring any items to motorists or passengers in any vehicle or repeatedly stopping, beckoning to, or attempting to stop vehicular traffic through bodily gestures.”¹²⁰ Defendants appealed their lower court conviction, and argued that the ordinance was unconstitutional because it was overbroad and void for vagueness. On appeal, defendants argued that the ordinance at issue was impermissibly vague because it did not delineate specifically enough what type of conduct was prohibited. The Court of Appeals did not accept either argument and upheld the ordinance and defendants’ convictions.¹²¹

People v. Schrader, 162 Misc. 2d 789, 617 N.Y.S. 2d 429 (Crim. Ct. 1994).

Defendant was charged with unlawfully soliciting in a subway station in violation of a New York City Transit Authority rule. Defendant argued that the charge should be dismissed because the rule violated his right to free speech which is protected by the New York State Constitution, and because the rule was broader than necessary to achieve a legitimate state objective. The court held that although begging in general was a form of protected speech under both the New York State and U.S. Constitutions, the subway system was not a public forum, and that a ban on begging in the subway system was a reasonable limitation on speech in the particular forum as a safety precaution. The court also found that the rule was not a viewpoint based restriction on speech.

¹²⁰ 121 Ohio App.3d at 574-75, 700 N.E.2d at 623-24.

C. Challenges to Vagrancy and Loitering Laws

City of Chicago v. Morales, 527 U.S. 41 (1999).

The city of Chicago challenged the Supreme Court of Illinois' decision that a Gang Congregation Ordinance violated the due process clause of the fourteenth amendment of the U.S. Constitution for impermissible vagueness -- lack of notice of proscribed conduct and failure to govern law enforcement. The ordinance prohibited criminal street gang members from loitering in a public place. The ordinance allowed a police officer to order persons to disperse if the officer observed any person loitering that the officer reasonably believed to be a gang member. The Supreme Court affirmed the judgment of the Illinois Supreme Court and ruled the ordinance unconstitutionally vague under the due process clause of the fourteenth amendment to the U.S. Constitution. Specifically, the court ruled that the ordinance violated the requirement that a legislature establish guidelines to govern law enforcement. Additionally, the ordinance failed to give the ordinary citizen adequate notice of what constituted the prohibited conduct -- loitering. The ordinance defined "loitering" as "to remain in any one place with no apparent purpose."¹²² The vagueness the Court found was not uncertainty as to the normal meaning of "loitering" but to the ordinance's definition of that term. The court reasoned that the ordinary person would find it difficult to state an "apparent purpose" for

¹²¹ One judge dissented asserting that the ordinance should have been found unconstitutional because it violated the free-speech public-forum doctrine.

¹²² 527 U.S. at 51 n. 14.

why they were standing in a public place with a group of people.¹²³ “Freedom to loiter for innocent purposes,” the court reiterated, is part of the liberty protected by the due process clause of the fourteenth amendment.¹²⁴

Justin v. City of Los Angeles, No. CV-00-12352 LGB, 2000 U.S. Dist. LEXIS 17881 (C.D. Cal. Dec. 5, 2000).

Plaintiffs, a group of homeless people living on the streets and in shelters of Los Angeles, filed suit alleging a violation of their First and Fourth Amendment rights and then filed for a temporary restraining order (TRO) in federal district court. Plaintiffs were ultimately seeking only injunctive relief. Plaintiffs sought the TRO to stop defendants from using two anti-loitering statutes, California Penal Code § 647(e) and Los Angeles Municipal Code § 41.18(a), to harass plaintiffs. The court denied the TRO as to preventing the authorities from using the codes to ask homeless individuals to “move along.” However, the court granted the TRO as to all other acts because plaintiffs established that they had shown a substantial likelihood of prevailing on the merits, would suffer irreparable harm if the TRO was not granted, and that the balance of equities tipped in their favor. The case has now been settled and a permanent injunction is in force for 48 months with the possibility of a court-granted extension for up to an additional 48 months. Defendants do not admit liability but are “enjoined as follows with respect to all members of the Class, when such Class members are in the Skid Row area described in plaintiffs’ complaint: (1) Officers will not conduct detentions or ‘Terry’

¹²³ *Id.* at 56.

¹²⁴ *Id.* at 53.

stops without reasonable suspicion. However, officers may continue to engage in consensual encounters with persons in the Skid Row area, including members of the Class; (2) Officers will not demand identification upon threat of arrest or arrest individuals solely due to their failure to produce identification in circumstances where there is no reasonable suspicion to stop or probable cause to arrest; (3) Officers will not conduct searches without probable cause to do so, except by consent or for officer safety reasons as permitted by law; (4) Officers will not order individuals to move from their position on the sidewalk on the basis of loitering unless they are obstructing or unreasonably interfering with the free passage of pedestrians on the sidewalk or ‘loitering’ for a legally independent unlawful purpose as specified in California Penal Code section 647; (5) Defendants will not confiscate personal property that does not appear abandoned and destroy it without notice. However, defendants may continue to clean streets and sidewalks, remove trash and debris from them, and immediately dispose of such trash and debris. Where applicable, defendants will give notice in compliance with the temporary restraining order issued in *Bennion v. City of Los Angeles* (C637718). Any personal property that does not appear intentionally abandoned collected by defendants will be retained for 90 days as provided by California Civil Code section 2080.2; (6) Officers will not cite individuals for violation of either Penal Code section 647(e) (loitering) or that portion of Los Angeles Municipal Code section 41.18 which makes it unlawful to “annoy or molest” a pedestrian on any sidewalk. However, officers may cite for obstructing or unreasonably interfering with the free passage of pedestrians on the sidewalk.”¹²⁵

¹²⁵ *Justin v. City of Los Angeles*, No. CV 00-12352 LGB (AIJx) (C.D. Cal. Nov. 5, 2001).

Kolender v. Lawson, 461 U.S. 352 (1983).

Plaintiff challenged the constitutionality of a California state statute that required persons who loiter or wander on the streets to provide “credible and reliable” identification and account for their presence when asked to do so by a police officer.¹²⁶ The Supreme Court found that the statute failed to adequately explain what a suspect must do to satisfy its requirements, and thus vested complete discretion in the hands of the police officers enforcing it, encouraging arbitrary enforcement. The court held that the statute was unconstitutionally vague in violation of the Due Process Clause of the Fourteenth Amendment.

Nunez by Nunez v. City of San Diego, 114 F.3d 935 (9th Cir. 1997).

Minors and parents brought an appeal challenging constitutionality of city’s juvenile curfew ordinance. The Court of Appeals for the Ninth Circuit held that the statute was unconstitutionally vague, that it violated the First and Fourteenth Amendments, and that it violated the right of parents to rear their children. The phrase “loiter, idle, wander, stroll or play” did not provide reasonable notice of what conduct was illegal and allowed the police excessive discretion in stopping and arresting juveniles.¹²⁷ While the court found that the city had a compelling interest in protecting children and preventing crime, the city failed to provide exceptions in the statute allowing

¹²⁶ 461 U.S. at 355.

¹²⁷ 114 F.3d at 942.

for the rights of free movement and expression, and thus struck down the statute as not narrowly tailored to meet the city's interest.

Papachristou v. City of Jacksonville, 405 U.S. 156 (1972).

Eight individuals convicted under Jacksonville's vagrancy ordinance challenged the constitutionality of the law. The Supreme Court overturned the decision of the Florida Circuit Court and found that the ordinance was void for vagueness under the Due Process Clause of the Fourteenth Amendment on the ground that the ordinance "'fails to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by the statute'" and "encourages arbitrary and erratic arrests and convictions."¹²⁸

Richard v. Nevada, No. CV-S-90-51 (D. Nev. Apr. 25, 1991).

Four Franciscan clergymen and four homeless individuals challenged Nevada's statute prohibiting criminal loitering and vagrancy and related provisions of the Las Vegas Municipal Code alleging that they were unconstitutionally vague and/or overbroad. The U.S. District Court for the District of Nevada held that the section of the Nevada statute defining vagrancy was unconstitutionally vague in violation of the Due Process Clause of the Fourteenth Amendment. However, the court abstained from making a decision on the other challenged section of the Nevada statute or sections of the

¹²⁸ Papachristou v. Jacksonville, 405 U.S. 156, 162 (1972)(citations omitted).

Las Vegas Municipal Code.¹²⁹ The court certified those matters to the Nevada Supreme Court, which subsequently held that both provisions were unconstitutionally vague.¹³⁰

D. MISCELLANEOUS

Federal Court Case

Mason v. City of Tucson, (D. Ariz. June 12, 1998).

Plaintiff sought a preliminary injunction, damages, declaratory and injunctive relief against the City of Tucson and the Tucson City Police for engaging in a policy of "zoning" homeless people charged with misdemeanors in order to restrict them from the downtown areas. Plaintiff argued that such restrictions violated his constitutional right to travel, constituted a deprivation of liberty without due process of law in violation of the 5th amendment and implicated the Equal Protection Clause of the 14th amendment. The zone restrictions placed on the plaintiff included a two mile square area covering most of downtown Tucson. This area includes all the local, state and federal courts, voter registration facilities, a soup kitchen, places of worship and many transportation and social service agencies.

On July 13, 1998, the District Court granted a preliminary injunction stating that the plaintiff had demonstrated some probability of success on the merits in that the zone

¹²⁹ Richard v. Nevada, No. CV-S-90-51 (Apr. 25, 1991).

¹³⁰ State v. Richard, 108 Nev. 626, 836 P.2d 622 (Nev. 1992).

restrictions promulgated against the plaintiff were likely unconstitutionally broad as to geographical area.¹³¹

The District Court granted plaintiff's preliminary injunction to the extent that, as to the plaintiff, defendants were enjoined from enforcing the zone restrictions, from imposing or enforcing similarly overbroad zone restrictions, or from imposing or enforcing any zone restrictions unless such restriction is specifically authorized by a judge.

Subsequent to the court's ruling on the preliminary injunction, the parties entered into settlement negotiations.

State Court Cases

State of Connecticut v. Mooney, 218 Conn. 85, 588 A.2d 145 (1991).

A homeless man who was convicted of murder challenged the legality of a search that had been conducted of his duffel bag and a closed cardboard box in an area under a highway bridge that he had made his home. The search, which was conducted without a warrant after the defendant had been arrested, had uncovered items that were used as evidence to link him to the crime. At trial, the court denied defendant's motion to have the items excluded from evidence at his trial on the ground that they had been obtained in the context of an unreasonable search of his belongings—in which he had a reasonable expectation of privacy—in violation of his Fourth Amendment right to be free from unreasonable searches and seizures.

¹³¹ Mason v. City of Tucson, No. CV 98-288 (D. Ariz. July 13, 1998).

The Connecticut Supreme Court overturned the defendant's conviction, finding that he had a reasonable expectation of privacy in the interior of the duffel bag and the cardboard box, which "represented, in effect, the defendant's last shred of privacy from the prying eyes of outsiders."¹³² The court found that he had an actual, subjective expectation of privacy, and that this expectation was reasonable under the circumstances of the case.

¹³² 588 A.2d 145, 161 (Conn. 1991).

III. Prohibited Conduct Chart

			TABLE III: Prohibited Conduct													
	Other		Sanitation	Begging		Sleeping/Camping				Sitting /Lying	Loitering /Loafing		Vagrancy			
				Urination/Defecation in public	Begging in public places	Begging in particular public places	"Aggressive" panhandling	Sleeping in public city-wide	Sleeping in particular public places		Camping in public city-wide	Camping in particular public places	Sitting or lying in particular public places	Loitering/Loafting/Vagrancy city-wide	Loitering/Loafting in particular public places	Obstruction of Sidewalks/Public places
Albuquerque NM	15					X				X						
Athens GA			X			X				X		X				X
Atlanta GA	1,2,6,7,12		X		X	X		X	X		X			X	X	X
Atlantic City NJ				X		X	X								X	
Austin TX	2		X	X		X	X		X		X			X		X
Baltimore MD	1,3,14		X		X	X		X				X		X	X	X
Boston MA	9				X	X	X				X			X	X	
Buffalo NY	1			X				X	X						X	X
Charleston SC				X	X										X	X
Charlotte NC	14		X			X		X			X			X	X	X
Chicago IL					X							X				X
Cincinnati OH					X	X									X	X
Cleveland OH					X			X						X	X	X
Colorado Springs CO	2,4,5	X	X							X		X		X		X
Columbus OH					X	X			X		X				X	X
Covington KY		X		X				X		X					X	X
Dallas TX	2	X	X			X	X			X						X
Decatur GA			X					X	X		X	X			X	X

Denver CO	1		X					X		X			X	X	X
Detroit MI				X	X							X	X	X	X
El Paso TX	1,2				X					X			X	X	X
Fort Worth TX	2			X	X									X	X
Fresno CA	2		X					X		X			X	X	
Honolulu HI										X			X		X
Houston TX	2		X			X				X				X	X
Indianapolis IN	1			X	X	X		X				X		X	
Jacksonville FL	2,7	X		X	X		X		X				X	X	
Kansas City MO	1,2				X	X							X	X	X
Las Vegas NV	1,2, 11							X						X	X
Lexington KY	1,2	X		X				X					X	X	X
Long Beach CA	2		X	X					X	X				X	
Los Angeles CA	2				X	X		X		X	X		X	X	X
Louisville KY	2		X	X			X	X					X	X	
Memphis TN					X	X								X	X
Mesa AZ	1,2, 5	X	X					X			X			X	X
Miami FL	11	X					X						X	X	X
Milwaukee WI						X		X		X	X	X		X	X
Minneapolis MN	1,2,10			X	X				X	X			X	X	X
Nashville TN	1	X			X					X	X		X	X	X
New Orleans LA				X			X								X
New York NY		X	X		X	X		X		X	X			X	X
Norfolk VA				X								X		X	
Oakland CA	1	X		X	X		X	X	X		X		X	X	
Oklahoma City OK	15			X	X			X		X			X		
Omaha NE				X				X						X	
Philadelphia PA	1,2		X		X	X					X		X	X	
Phoenix AZ					X	X	X		X				X	X	
Pittsburgh	1,2	X			X	X				X				X	X

IV. Incident Form for Documentation of Civil Rights Abuses (English and Spanish)



National Coalition for the Homeless

1012 14th Street, NW, Suite 600 • Washington, DC 20005-3471

Phone: (202) 737-6444 • Fax: (202) 737-6445

Email: info@nationalhomeless.org • Website: <http://www.nationalhomeless.org>

INCIDENT REPORT FORM FOR VIOLENCE OR HARRASSMENT OF PERSON EXPERIENCING HOMELESSNESS

(please duplicate and use this form)

The purpose of this incident report form is to assist advocates and people experiencing homelessness in tracking cases of abuse and/or mistreatment. The victim's signature at the end of the form indicates his/her consent to use the information in reports and/or presentations to various groups, including the media. The victim should not sign the form if s/he does not consent. (See signature instructions at the end.)

Contact Information of Victim (optional)
--

Name _____

Address or Way to contact _____

Phone number or way to contact (_____) _____ Email _____

Victim's identity/characteristics (optional) *This information will help to determine factors that have played a role in the incident. Fill out any applicable category.*

Race _____ Religion _____

Ethnicity/National Origin _____ Sexual Orientation _____

Gender _____ Disability _____

Incident Location

Date and Time _____

Location: *Be as specific as possible, for example, on the corner of 14th and K between the metro entrance and the coffee stand.*

Losses/Grievances, e.g. destruction or confiscation of property, arrest, arson, assault/battery, murder

Description of Incident: *Include as many factual details as possible, e.g. any police response and involvement and any witness information. Use back or attach sheets if necessary.*

IF POLICE WERE INVOLVED: Name of officer _____ Badge number _____

[illegible]

Contact Information of Person filling out this report, if someone other than the victim himself/herself

Name _____

Address or Way to contact

Phone number or way to contact (_____)_____

Email _____

Your signature immediately below indicates your consent for us to use the information on this form in reports and/or presentations to various groups, including the media. This refers to information only; actual names/identification of individual victims will be withheld as a matter of course unless otherwise agreed to in advance. You DO NOT have to sign here if you do not consent.

Signature _____ Date _____

Resolution/Outcome (if any)

Reported by_____Date_____



National Coalition for the Homeless

1012 14th Street, NW, Suite 600 • Washington, DC 20005-3471

Phone: (202) 737-6444 • Fax: (202) 737-6445

Email: info@nationalhomeless.org • Website: <http://www.nationalhomeless.org>

REPORTE DE UN INCIDENTE DE HOSTIGAMIENTO O VIOLENCIA EN CONTRA DE UNA PERSONA SIN HOGAR

El propósito de este reporte es para ayudar a las personas sin hogar y sus abogados a identificar y documentar casos de abuso y/o de maltrato. La firma de la víctima al final de esta forma indica su consentimiento en que se use su información en reportes y/o presentaciones que se hagan a diversos grupos incluyendo los medios de comunicación. La víctima no debe firmar este documento si no da su consentimiento de que la información se comparta. (Favor ver instrucciones sobre la firma al final del documento)

Información para poder contactar a la víctima (opcional)
--

Nombre _____

Dirección o lugar donde se puede contactar _____

Número de teléfono (_____) _____

Dirección Electrónica (Email)_____

Identidad de la víctima y sus características (opcional). Esta información ayudará a determinar factores que puedan haber afectado el incidente. Llene cualquier categoría que aplique.

Raza_____

Religión_____

Origen nacional/étnico_____

Orientación sexual_____

Género_____

Incapacidad_____

Lugar del Incidente

Fecha y Hora_____

Lugar: Sea tan específico(a) como pueda, por ejemplo, en la esquina de tal calle con tal calle, entre la estación de transportación pública y la cafetería X.

Naturaleza del incidente: Pérdidas/querellas, golpes, heridas, asalto, maltrato, arresto, ultraje, vandalismo, propiedad destruida o confiscada, fuego, asesinato

Descripción del incidente: Incluir tantos detalles de hechos como pueda, por ejemplo: cualquier respuesta o participación policial, y cualquier información de testigos. Use la parte de atrás de la página o añada hojas adicionales si es necesario.

Si la policía estuvo envuelta: Nombre del oficial_____

Número de placa _____

[illegible]

Información para contactar a la persona que llena este reporte, si es distinta a la víctima: Favor de incluir nombre, dirección, teléfono, dirección electrónica (email).

Su firma, inmediatamente abajo, indica su consentimiento a que usemos la información que está en este documento en reportes y/o presentaciones a varios grupos incluyendo los medios de comunicación. Esto se refiere solamente a la información; los nombres/identidad de las víctimas se mantendrá secreta a menos de que haya habido un acuerdo distinto. Usted no tiene que firmar aquí si no quiere dar su consentimiento.

Firma: _____ **Fecha:** _____

Resultado/consecuencias (si alguna)

Reportado por _____ Fecha: _____

V. Survey Questions

How has your city's treatment of homeless people changed over the past two years?

How are anti-homeless ordinances, laws that prohibit acts that homeless people have to do in public because they live outdoors (e.g. camping, sleeping, panhandling) or any laws that are aimed at clearing the streets of homeless people, being enforced in your city?

Are there any more general laws (e.g. drug-free zones, jaywalking, or sitting on the sidewalk) used or misused to target homeless people? Please cite examples.

Have there been any recent sweeps of homeless people in your city and are they conducted in certain areas? Please cite examples.

1. Are local government officials seeking to decrease visibility of homeless people and are there any laws being considered or used that do that?
2. If your city has any Business Improvement Districts (BIDs), how are homeless people treated within these districts?
3. Are sweeps connected to any major athletic, political events or other special occasions?
4. Other?

How many anti-homeless citations/arrests were issued in your city over the last two years?

Is there anyone in your city bringing litigation challenging anti-homeless laws or policies? If so, do you have any contact information?

Are there any constructive alternatives?

1. police sensitivity trainings? Who provides the training?
2. successful public education or grassroots organizing campaigns?
3. other?

Please provide quotes from homeless people, advocates and/or service providers that describe civil rights abuse issues in your city.

The following questions are optional depending if this information can be easily accessed (anecdotal information is fine):

1. Has there been any incidences of violence and/or hate crimes against homeless people?
2. What is your city spending to arrest, cite or harass homeless people compared to providing emergency services (e.g. shelter, food, benefits) or long –term

solutions to homelessness (e.g. affordable housing, treatment on demand, etc.)?

3. How many homeless people have died in your city over the last two years?
4. What resources, or lack thereof, does your city have for homeless people with substance abuse or mental health issues?
5. Is your city considering creating special courts that target homeless people with mental health issues?
6. Where else in your state are there civil rights abuses occurring toward homeless people? Do you have any contact information groups that are documenting, organizing or advocating around homeless civil rights issues.
7. Anything else you want to add?

VI. Shelter/Transitional Housing

Capacity

Table I: Emergency Shelter and Transitional Housing Capacity from Con Plan

City	# of Hmls People	Emergency Shltr Beds	Transitional Hsng Slots
New York	26,394 ¹³³ 79,182	N/A ¹³⁴	22,804 ¹³⁵
Los Angeles ¹³⁶	41,500	3,929 ¹³⁷	10,098 ¹³⁸
Chicago	15,774	757	1,741
Houston	9,216	1,729 ¹³⁹	1,530 ¹⁴⁰
Philadelphia	33,089 ¹⁴¹	1,719	2,542

¹³³ Estimate of the number of homeless people receiving shelter in the city. Does not include unsheltered homeless.

¹³⁴ From the Con Plan: "Emergency shelter is no longer considered a remedy for homelessness. Individuals as well as families are placed directly into Transitional Shelters where their needs can be assessed and program placement made possible. For individuals who are unwilling to accept a structured program, a small portion of general beds are available."

¹³⁵ Estimate for the total number serviced by transitional housing, not the inventory.

¹³⁶ Los Angeles data obtained from Continuum of Care, reported by Con Plan writers to be more up to date than the Consolidated Plan estimates.

¹³⁷ Inventory of emergency shelter beds for all of Los Angeles County excluding Pasadena, Glendale, and Long Beach.

¹³⁸ Inventory of transitional housing slots for all of Los Angeles County excluding Pasadena, Glendale, and Long Beach.

¹³⁹ Data obtained from telephone interview with Coalition for the Homeless of Houston/Harris Counties, referred by the Housing and Community Development office in the absence of information reported in the Con Plan.

¹⁴⁰ Ibid.

San Diego	6,500	202 ¹⁴²	819 ¹⁴³
Dallas	3,098 ¹⁴⁴	1,538	298
Phoenix ¹⁴⁵	12,000	1,542	3,576
Detroit	5,309	2,200	1,622
San Jose	1,805 ¹⁴⁶	1,181	868
Indianapolis	3,488	689	506
San Francisco ¹⁴⁷	9,515	2,256	1,219
Baltimore	2,400-3,000	945 ¹⁴⁸	2,260 ¹⁴⁹
Jacksonville ¹⁵⁰	2,822	657	742
Columbus ¹⁵¹	985 ¹⁵²	1,240	1,346
Milwaukee	1,800 ¹⁵³	776	615

¹⁴¹ Number includes individuals in permanent supportive housing. However, for families, only the heads of household are included in the count, not every individual family member.

¹⁴² Up to date info was obtained from the Regional Task Force on the Homeless who provided previous data for the Con Plan. Figure does not include hotel voucher programs, a capacity for which is not reported.

¹⁴³ Ibid.

¹⁴⁴ Figure was not provided in the Consolidated Plan. The Dallas Homeless Count, 1999 reported 3,098.

¹⁴⁵ Data for Maricopa County, which includes Phoenix and Mesa.

¹⁴⁶ Based on survey interview of shelter and street homeless population; however, not all shelter residents were able or willing to be interviewed.

¹⁴⁷ Numbers from the Continuum of Care application, reported by Con Plan writers to be more up to date.

¹⁴⁸ Data from Continuum of Care because the Consolidated Plan does not report the emergency shelter inventory. 945 figure includes an additional 25 beds not reported in the Continuum count.

¹⁴⁹ Data from Continuum of Care because the Consolidated Plan does not report the transitional shelter inventory. 2,260 inventory obtained by multiplying 930 transitional housing units by an average of 2.43 persons per unit.

¹⁵⁰ Data which Con Plan writers report will be used when Con Plan is drafted.

¹⁵¹ Information provided by the Community Shelter Board, reported by Con Plan writers to have more up to date information than the Con Plan.

¹⁵² Point in time estimate for sheltered homeless on any given night. Does not include unsheltered population.

¹⁵³ Figure not reported in the Consolidated Plan. Verbal estimate of total homeless population given by the Planning Council for Health and Human Services.

Memphis	8,000- 10,000 ¹⁵⁴	423 ¹⁵⁵	658
Washington, DC	6,600	679	4,258 ¹⁵⁶
Boston	5,016	2,966	1,933
El Paso ¹⁵⁷		863	287
Seattle	3,035	2,553	145
Cleveland	3,080 ¹⁵⁸	731	1,015
Nashville ¹⁵⁹	1,300	621(200)	302
Austin ¹⁶⁰	3,625	435 ¹⁶¹	690
New Orleans	5,000	903	659
Denver ¹⁶²	4,831	1,307	817
Fort Worth	2,683 ¹⁶³	775 ¹⁶⁴	569 ¹⁶⁵
Oklahoma City	2,896	618	223

¹⁵⁴ This statistic not included in the Consolidated Plan. Estimate provided by the Greater Memphis Interagency Coalition for the Homeless who works with the city to provide statistics for the Con Plan.

¹⁵⁵ This number is not a complete count because there are some shelters which either are not in the database or do not confirm their bed count.

¹⁵⁶ Number reflects the cumulative total for transitional beds (2,468) and 24 hour shelters (1,772).

¹⁵⁷ El Paso has not drafted this section of the Con Plan yet. These figures are based on a point in time count in 1998 by the El Paso Coalition for the Homeless.

¹⁵⁸ Persons living in transitional housing are not reflected in this estimate.

¹⁵⁹ Data reflects joint estimates for Nashville and Davidson County.

¹⁶⁰ Data reflects joint estimates for Austin City and Travis County.

¹⁶¹ Number does not include 100 beds currently under development.

¹⁶² Numbers from the 2000 Continuum of Care planning process because of inadequacy of Consolidated Plan numbers.

¹⁶³ Number reflects estimate for Tarrant County. 1,030 of the 2,683 are living in transitional or permanent supportive housing.

¹⁶⁴ Data in the Con Plan was for Tarrant County, however, in a telephone interview, Con Plan writers separated out the numbers to give the number of beds in Fort Worth.

¹⁶⁵ Ibid.

Portland ¹⁶⁶	3,461	632	1,340
Long Beach ¹⁶⁷	3,538 ¹⁶⁸	238	474
Kansas City	10,111 ¹⁶⁹	845	191
Virginia Beach	450	198	445
Charlotte	4,600 ¹⁷⁰	828	908
Tucson	2,600-3,200	485	936
Albuquerque ¹⁷¹	1,500-3,00	917	323
Atlanta ¹⁷²	11,000	1,140	3,118
St. Louis	8,000-13,000	795 ¹⁷³	662 ¹⁷⁴
Fresno	3,200	1150	1725
Tulsa	1,500 ¹⁷⁵	650	340
Oakland	5,000	376 ¹⁷⁶	647

¹⁶⁶ Numbers from the continuum of care application gaps analysis chart, reported by Con Plan writers to be more accurate and up to date than the Con Plan data.

¹⁶⁷ Consolidate Plan not completed yet. Data taken from the Continuum of Care.

¹⁶⁸ Total number of homeless not reported in the Continuum of Care. Figure represents the Department of Community Development's best estimate of the total homeless population.

¹⁶⁹ Figure reflects estimate of number of homeless at some point within a year, not at a single point in time. Homeless individuals, not as members of a family, over the age of 17 are not included in this count.

¹⁷⁰ Consolidated Plan does not report total number of homeless. Con Plan writers referred inquiry to the Executive Director of the Uptown Shelter who gave an estimate of 4,600 homeless in Charlotte on any given day.

¹⁷¹ Albuquerque's Consolidated Plan will not be completed until 2001. Data is taken from 2000 Continuum of Care.

¹⁷² Data for the Atlanta Metropolitan Statistical Area

¹⁷³ An additional 25 beds are shared with the County.

¹⁷⁴ An additional 54 city beds are located in St. Louis County.

¹⁷⁵ Tulsa has not done a homeless count in recent years and do not document this number in their Con Plan or Continuum of Care, but the lead for the Continuum of Care gives a verbal estimate of 1,500.

Honolulu	1,803	439	1,060
Pittsburgh ¹⁷⁷	1,200-1,400	416	493
Cincinnati	1558	681	467 ¹⁷⁸
Minneapolis	8,242	1,604	1,582
Omaha ¹⁷⁹	1,176	272	347
Toledo	3,800- 3,900 ¹⁸⁰	596 ¹⁸¹	269 ¹⁸²
Buffalo	7,500 ¹⁸³	440	1,123
Las Vegas	6,707	1,650	1,258
Mesa ¹⁸⁴	12,000 ¹⁸⁵	1,542	3,576
Lexington ¹⁸⁶	953	307	607
Wheeling	286	76	8
Covington	506	97	112
Athens	170 ¹⁸⁷	51	54

¹⁷⁶ Oakland Army Base Winter Shelter provided an additional 100 beds for the winter of '99-'00, but it is uncertain whether the shelter will open again in following years.

¹⁷⁷ Figures are county-wide numbers because social services are administered jointly between the City of Pittsburgh and Allegheny County by Allegheny County's Department of Human Services.

¹⁷⁸ Number does not include 142 additional beds under construction.

¹⁷⁹ This section of the Consolidated Plan had not been written yet; however, writers say that these are the numbers which will be used when writing the Con Plan.

¹⁸⁰ Figure not reported in the Con Plan or Continuum of Care. Estimate given from staff at the Department of Neighborhoods.

¹⁸¹ Data obtained from Continuum of Care because Con Plan writers report that Con Plan data includes non-homeless services in its counts.

¹⁸² Ibid.

¹⁸³ Figure not reported in the Consolidated Plan. 7,500 is an estimate for the total homeless population in Eerie County obtained from a 1988 study by Adult Residential Care Advocates (CARE).

¹⁸⁴ Data for Maricopa County, which includes Mesa and Phoenix.

¹⁸⁵ Mesa Consolidate Plan does not report total number of homeless people for Maricopa County. 12,000 is the estimate given by the Phoenix Con Plan for Maricopa County.

¹⁸⁶ Data from Con Plan submission that had yet to be approved by HUD.

¹⁸⁷ Total number of sheltered homeless at a point in time. Does not include unsheltered.

San Angelo	131 ¹⁸⁸	117	85
Salt Lake City	1,400	1,077	694
Providence	1,831	207	752

¹⁸⁸ Figure from a point in time homeless count reported in Consolidate Plan. However, Con Plan also states, “Currently, there is no statistically sound count or estimate of how many homeless people are in San Angelo.”

VII. Fair Market Rents

City	FMR 0 (studio) BR ¹⁸⁹	FMR 1 BR ¹⁹⁰	FMR 0 (studio) BR ¹⁹¹	Estimated % Unable to Afford 1 BR ¹⁹²	Monthly Minimum Wage Earnings ¹⁹³	Unemployment Rate % (P)MSA/City ¹⁹⁴	Max. Monthly GA/GR Benefit ¹⁹⁵
New York	\$704	\$785	\$727	43%	\$892.50	5.1/5.5	\$352
Los Angeles	\$494	\$592	\$505	37%	\$996.48	5.3/6.0	\$221
Chicago	\$516	\$619	\$533	37%	\$892.50	3.9/5.3	\$100
Houston	\$413	\$464	\$426	32%	\$892.50	4.1/5.0	No Program
Philadelphia	\$475	\$584	\$486	38%	\$892.50	3.4/5.1	\$215
San Diego	\$510	\$583	\$563	38%	\$996.48	2.7/2.8	\$274
Dallas	\$487	\$560	\$508	34%	\$892.50	2.9/3.8	No Program
Phoenix	\$417	\$505	\$422	37%	\$892.50	2.3/2.5	\$173
Detroit	\$386	\$525	\$396	37%	\$892.50	2.6/5.3	\$246
San Antonio	\$371	\$428	\$372	35%	\$892.50	3.1/3.6	No Program

¹⁸⁹ Fair Market Rent for 1999. Fair Market Rent (FMR) in dollars/month for a studio/efficiency apartment in metropolitan area in which city is located. Department of Housing and Urban Development, 1998.

¹⁹⁰ Fair Market Rent for 1999. Fair Market Rent (FMR) in dollars/month for a one bedroom apartment in metropolitan area in which city is located. Department of Housing and Urban Development, 1998.

¹⁹¹ Fair Market Rent for 2000. Fair Market Rent (FMR) in dollars/month for a studio/efficiency apartment in metropolitan area in which city is located. Department of Housing and Urban Development, 1999.

San Jose	\$808	\$922	\$866	37%	\$996.48	2.0/2.3	\$300
Indianapolis	\$361	\$453	\$366	31%	\$892.50	2.7/3.3	\$592
San Francisco	\$713	\$923	\$832	40%	\$996.48	1.9/2.4	\$375 ¹⁹⁶
Baltimore	\$421	\$515	\$431	30%	\$892.50	3.3/6.1	\$113
Jacksonville	\$422	\$472	\$424	33%	\$892.50	3.3/3.4	\$320
Columbus	\$364	\$431	\$393	31%	\$892.50	2.2/2.7	\$115
Milwaukee	\$368	\$482	\$377	31%	\$892.50	3.6/6.0	No Program
Memphis	\$387	\$451	\$389	35%	\$892.50	3.1/3.8	No Program
Washington, DC	\$615	\$699	\$630	31%	\$1062.80	2.0/4.9	\$239
Boston	\$643	\$723	\$669	39%	\$1039.80 ¹⁹⁷	2.1/2.7	\$339
El Paso	\$397	\$445	\$398	40%	\$892.50	8.3/7.9	No Program
Seattle	\$478	\$582	\$501	35%	\$1126.45	3.2/3.5	\$349

¹⁹² Estimated percentage of renters unable to afford FMR for a one bedroom apartment based on HUD federal affordability guidelines (30% of income), National Low Income Housing Coalition, September 1999.

¹⁹³ US Department of Labor, Employment Standards Administration, Wage and Hour Division, January 2000. Minimum wage applicable to most employers in the city multiplied by 173.3 hours/month.

¹⁹⁴ Unemployment Rates are from April 2000. (P)MSA = (Primary) Metropolitan Statistical Area. Some of the cities are designated as PMSAs, while others are MSAs. U.S. Department of Labor, Bureau of Labor Statistics, June 2000.

¹⁹⁵ Maximum Monthly General Assistance Benefits for One person, Urban Institute, Assessing the New Federalism: State General Assistance Programs, April 1999. When report did not give the maximum monthly benefit for a particular locality, amounts were obtained by contacting the appropriate local agency.

¹⁹⁶ The County Adult Assistance Programs (CAAP) for San Francisco is divided into four programs, PAES (Personal Assisted Employment Services), CALM (Cash Assistance Linked to Medi-Cal), SSIP (Supplemental Security Income Pending), and GA (General Assistance). The maximum monthly benefits for PAES, CALM, and SSIP effective 10/1/00 (adjusted for COLA) is \$375, and for GA is \$303.

¹⁹⁷ \$1169.78 effective 01/01/01.

Cleveland	\$382	\$480	\$398	38%	\$892.50	3.98.8	\$115
Nashville	\$425	\$508	\$427	34%	\$892.50	2.4/2.4	No Program
Austin	\$434	\$525	\$435	38%	\$892.50	1.92.1	No Program
New Orleans	\$364	\$417	\$365	34%	\$892.50	3.5/3.9	No Program
Denver	\$418	\$499	\$458	33%	\$892.50	2.2/2.8	Variable
Fort Worth	\$417	\$453	\$434	31%	\$892.50	3.0/3.9	No Program
Oklahoma City	\$331	\$361	\$332	32%	\$892.50	2.1/2.4	No Program
Portland	\$425	\$523	\$463	37%	\$1126.45	3.6/4.3	\$298
Long Beach	\$494	\$592	\$505	37%	\$996.48	5.3/4.9	\$221
Kansas City	\$353	\$444	\$379	32%	\$892.50	2.6/2.7	\$80
Virginia Beach	\$433	\$487	\$436	33%	\$892.50	2.6/2.2	No Program
Charlotte	\$434	\$489	\$510	33%	\$892.50	2.3/2.1	No Program
Tucson	\$378	\$454	\$383	41%	\$892.50	2.5/2.8	\$173
Albuquerque	\$392	\$467	\$393	39%	\$892.50	3.4/3.2	\$231
Atlanta	\$530	\$590	\$549	34%	\$892.50	2.6/4.1	\$225
St. Louis	\$317	\$386	\$323	28%	\$892.50	2.8/4.7	\$80
Sacramento	\$434	\$490	\$447	34%	\$996.48	3.7/4.7	\$643
Fresno	\$374	\$419	\$379	39%	\$996.48	14.6/13.4	\$266

Tulsa	\$332	\$397	\$333	37%	\$892.50	2.6/2.7	No Program
Oakland	\$567	\$686	\$607	38%	\$996.48	2.6/4.3	\$310
Honolulu	\$613	\$733	\$604	39%	\$909.83	3.7/3.7	\$340
Miami	\$449	\$563	\$455	44%	\$892.50	5.6/8.2	\$220
Pittsburgh	\$335	\$411	\$378	40%	\$892.50	3.6/3.4	\$215
Cincinnati	\$309	\$397	\$316	32%	\$892.50	3.0/4.6	\$115
Minneapolis	\$405	\$521	\$416	34%	\$892.50	2.0/2.5	\$203
Omaha	\$334	\$458	\$338	33%	\$892.50	2.3/2.8	\$645
Toledo	\$335	\$432	\$360	35%	\$892.50	3.6/4.7	\$115
Buffalo	\$346	\$421	\$356	41%	\$892.50	4.8/7.8	\$346 ¹⁹⁸
Mesa			\$422		\$892.50	2.3/1.9	\$173
Colorado Springs			\$443		\$892.50	3.1/3.1	\$229
Las Vegas			\$497		\$892.50	3.8/3.8	\$277
Wheeling			\$315		\$892.50	4.1/2.9	No Program
Covington			\$316		\$892.50	3.0/2.7	No Program
Louisville			\$318		\$892.50	3.2/3.4	\$305
Lexington			\$344		\$892.50	1.9/1.6	No Program ¹⁹⁹
Valdosta			\$313		\$892.50	NA ²⁰⁰ /6.5	No Program

¹⁹⁸ Figure does not include \$119 maximum monthly food stamp allocation under their GA/GR program.

¹⁹⁹ Fayette County, KY has no GA/GR program, however they have a maximum monthly food stamp allocation of \$127 for an individual.

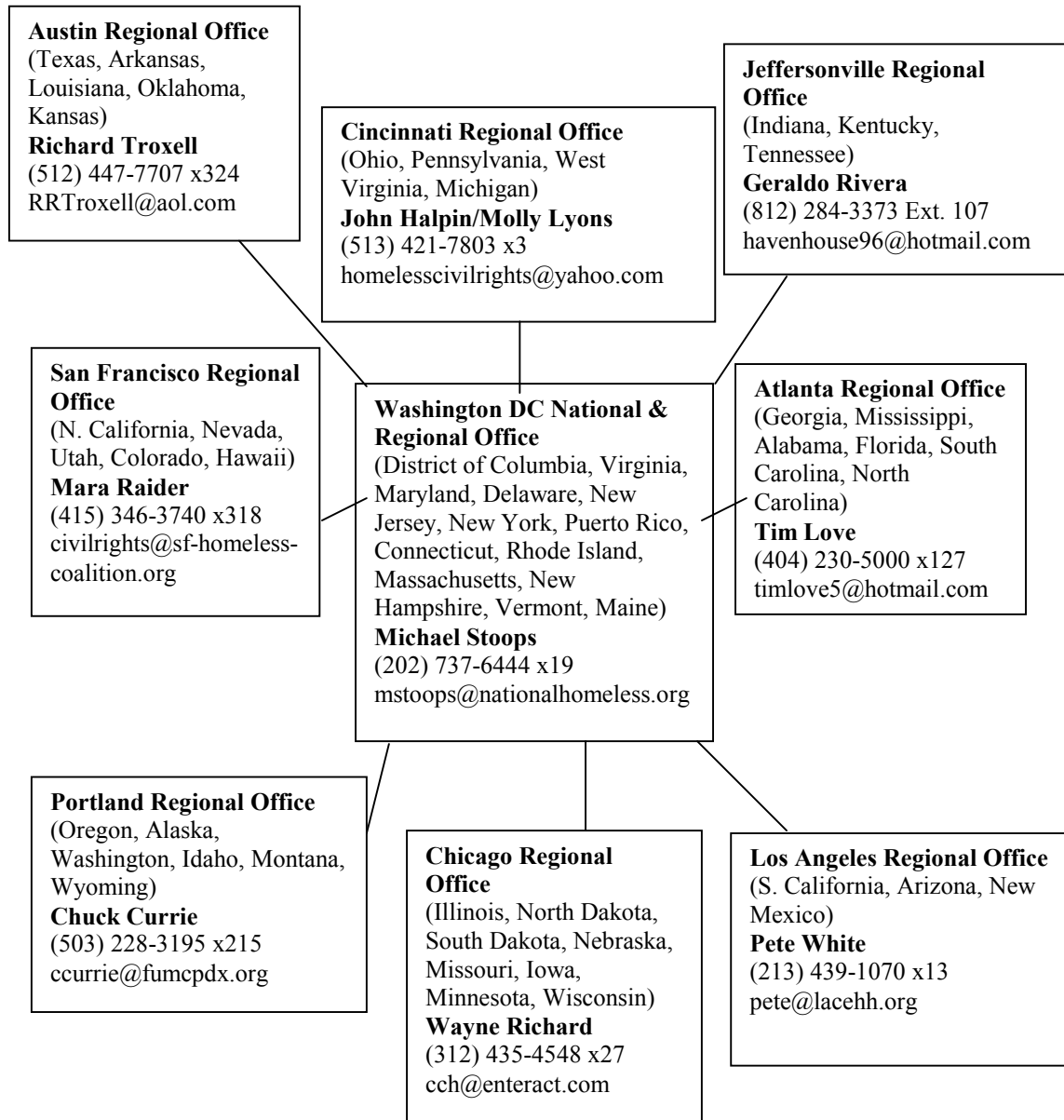
²⁰⁰ Valdosta is not located within any Metropolitan Statistical Area.

Athens			\$373		\$892.50	2.0/2.2	Variable
Decatur			\$280		\$892.50	2.6/NA ²⁰¹	
Atlantic City			\$499		\$892.50	6.7/10.2	\$140 ²⁰²
Providence			\$408		\$979.15	3.4/4.3	\$200
Portland, ME			\$381		\$892.50	1.6/1.7	
Salt Lake City			\$440		\$892.50	2.5/2.9	\$306
Santa Cruz			\$642		\$996.48	6.4/5.6	\$341
San Angelo			\$283		\$892.50	3.0/3.2	No Program

²⁰¹ The unemployment rate for the City of Decatur is not published by the Bureau of Labor Statistics.

²⁰² \$140 employable, \$210 unemployable. In New Jersey, in addition to cash benefits, GA recipients are also eligible for Housing Assistance if they fall into one of the following three categories: (1) housing destroyed by fire or natural disaster; (2) require housing due to domestic violence; or (3) evicted or about to become evicted; and if they demonstrate a lack of realistic capacity to plan for substitute housing (e.g. they don't have enough time to find housing or funds are exhausted due to other expenses). For those in temporary housing (hotel or motel) the maximum benefit is \$35 per day for an individual, \$45 per day for two persons. The maximum benefit for permanent housing is \$250. Housing benefits may be increased depending on the degree of need and are paid directly to the vendor. Housing benefits are limited to 12 months.

VIII. NHCROP Regional Field Sites



IX. Civil Rights Work Group Members

Barbara Anderson
Geraldo Rivera
Haven House Services
P.O. Box 1544
Jeffersonville, IN 47130-5742
(812) 284-3373 Ext. 105 (Barbara); Ext. 107 (Geraldo)
Fax (812) 284-1665
BAnd4280@aol.com (Barbara)
Havenhouse96@hotmail.com (Geraldo)

Martha Are
Hospitality House of Asheville
222 S. French Broad Ave.
Asheville, NC 28801
(828) 258-1695
Fax (828) 253-5747
hosphouse@ioa.com

Cheryl Barnes
461 H St., NW; #325
Washington, DC 20001
(202) 289-1985

Anita Beaty, **Co-Chair/CRWG**
Tim Love
Metro Atlanta Task Force for the Homeless
363 Georgia Ave., SE; 2nd floor
Atlanta, GA 30312-3139
(404) 230-5007 Ext. 118 (Anita)
(404) 230-5000 Ext. 127 (Tim)
Fax (404) 589-8251
abeaty@mail.homelesstaskforce.org
timlove5@hotmail.com

Alicia Beck/John Halpin/Molly Lyons
Greater Cincinnati Coalition for the Homeless
1506 Elm St.
Cincinnati, OH 45210
(513) 421-7803 Ext. 1 (Alicia); Ext. 3 (John & Molly)
Fax (513) 421-7813
homelesscivilrights@yahoo.com (John & Molly)
ambeck12@yahoo.com (Alicia)

Ed Bell
Operation Get Down
10100 Harper
Detroit, MI 48213
(313) 921-9422 Ext. 235
Fax (313) 571-9022
Edbellatogd@aol.com

Paul Boden, **Co-Chair/CRWG**
Mara Raider
SF Coalition on Homelessness
468 Turk St.
San Francisco, CA 94102-3606
(415) 346-3740 Ext. 306 (Paul); Ext. 318 (Mara)
Fax (415) 775-5639
pboden@sf-homeless-coalition.org
civilrights@sf-homeless-coalition.org (Mara)

MacCanon Brown
Repairers of the Breach
P.O. Box 13791
Milwaukee, WI 52313
(414) 297-9146
Fax (414) 934-9305 (call first)
maccanon.brown@worldnet.att.net

Pat Cleman
1000 6th St., SW; #406
Washington, DC 20024
(202) 842-8600 Ext. 138
pat@ruralhome.org

Callie Cole
Mississippi United Against Homelessness
P.O. Box 905
Meridian, MS 39302-0905
(601) 483-4838
Fax (601) 482-9861

Chuck Currie
Goose Hollow Family Shelter
1838 SW Jefferson St.
Portland, OR 97201
(503) 228-3195 Ext. 215
Fax (503) 273-8711
ccurrie@fumcpdx.org

Brian Davis
Northeast Ohio Coalition for the Homeless
2012 W. 25th St; #717
Cleveland, OH 44113-4131
(216) 241-1104
Fax (216) 241-1047
neoch@bbs2.rmrc.net

Josh Diem
107 Elm St.
Carrboro, NC 27510
(919) 932-6025
joshdiem@hotmail.com

Bob Erlenbusch/PeteWhite
LA Coalition to End Hunger & Homelessness
548 S. Spring St.; #339
Los Angeles, CA 90013
(213) 439-1070 Ext. 12 (Bob); Ext. 13 (Pete)
Fax (213) 439-1080
bob@lacehh.org
pete@lacehh.org

Gerardo Gomez
711 NE Fillmore St.
Minneapolis, MN 55413
(612) 379-1195
revolucion42@excite.com

Kathleen Hasegawa
Affordable Housing Alliance
810 N. Vineyard Blvd; #212
Honolulu, HI 96817
(808) 845-4565
Fax (808) 843-2445
alliance@ixi.com

Sherrie Kay
Hunger Task Force of Milwaukee
201 S. Hawley
Milwaukee, WI 53124
(414) 777-0483 Ext. 113
Fax (414) 777-0489
sherrie@hungertaskforce.org

Lynn Lewis
Picture the Homeless
236 E. 118th St; #4
New York, NY 10035
(212) 860-6001
Fax (212) 505-8008
lynn@cvhaction.org

Glorin Ruiz Pastush
Caleta San Juan 55A
San Juan, PR 00901
(787) 722-7306
glorinrich@juno.com

Pallavi Rai/Laurel Weir
National Law Center on Homelessness &
Poverty
1411 K St., NW; #1400
Washington, DC 20005
(202) 638-2535 Ext. 208 (Pallavi); Ext. 210
(Laurel)
Fax (202) 628-2737
prai@nlchp.org

Wayne Richard/Della Mitchell
Chicago Coalition for the Homeless
1325 S. Wabash Ave; #205
Chicago, IL 60605-2504
(312) 435-4548 Ext. 27 (Wayne); Ext. 19 (Della)
Fax (312) 435-0198
cch@enteract.com

Delena Stephens
Office of Justice & Peace
134 E. Church St.
Jacksonville, FL 32202-3130
(904) 358-7410
Fax (904) 358-7302
peace@cxp.com

Sandy Swank
Inter-faith Ministries
829 N. Market St.
Wichita, KS 67214
(316) 264-9303
Fax (316) 264-2233
sandyswank@hotmail.com

Richard Troxell
House the Homeless, Inc.
4824 Timberline Dr.
Austin, TX 78746
(512) 447-7707 Ext. 324
Fax (512) 447-3940
RRtroxell@aol.com

Joshua Welter
Rhodes College
Box 2452
2000 N. Parkway
Memphis, TN 38112
(901) 843-5507
weljb@rhodes.edu

Anthony Williams
Picture the Homeless
28 Bond St; #1
New York, NY 10012
(212) 254-7238
(917) 584-8106 (cell phone)
Fax (212) 477-3923

Jodie Wright
8 Lincoln St.
Concord, NH 03301-2403
(603) 225-2995
Fax (603) 715-1383
jlwright@dhhs.state.nh.us