Sleeping Outside is Not a Crime: Decriminalizing Homelessness

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Nichele Carver, USICH
Ann Oliva, NAEH
WHO WE ARE

The National Alliance to End Homelessness is a nonprofit, non-partisan, organization committed to preventing and ending homelessness in the United States.

As a leading voice on the issue of homelessness, the Alliance analyzes policy and develops pragmatic, cost-effective policy solutions; works collaboratively with the public, private, and nonprofit sectors to build state and local capacity; and provides data and research to policymakers and elected officials in order to inform policy debates and educate the public and opinion leaders nationwide.
Our Values

USICH believes:

- Homelessness is deadly but preventable
- Homelessness is the failure of systems—not the people who are failed by those systems
- Systemic racism is a root cause of homelessness
- Housing is health care
- Housing is a human right
- It is not a crime to be homeless
- People who have experienced homelessness must be in positions of power to shape federal, state, and local policy
- Data and evidence are the foundations of effective policymaking
- Housing is the first step toward a better life—but for many, it’s not sustainable without robust wraparound supports
- The federal government has a duty to listen to local needs and support local innovation

Our Mission

The mission of the U.S. Interagency Council on Homelessness (USICH) is to coordinate the federal response to homelessness and to create a national partnership at every level of government and with the private sector to reduce and end homelessness in the nation while maximizing the effectiveness of the federal government in contributing to the end of homelessness.
What Do We Mean by “Criminalization”? 

Many anti-homeless laws are tied back to Victorian-era “vagrancy laws” and others to Jim Crow laws. These laws punish people who can’t afford a place to live and have to sleep, shelter, and conduct other life-sustaining activities in public.

• Federal, state or local laws punishing people for activities such as:
  • Sleeping or resting
  • Encroachment
  • Fare evasion
• Ticketing, fining or arresting (both criminal and civil penalties)
• Evictions that result in arrest
• “Reclaiming public spaces”
• Forced treatment or “camps”
State Level Threats

This map is current as of February 13th, 2024. You can find more background and resources below.

https://housingnothandcuffs.org/emergent-threats-homelessness-criminalization/
How are these practices harmful?

People Experiencing Homelessness

- **Dehumanizes** people experiencing homelessness for simply existing in a public space.
- For young people it is especially damaging because the effects can follow them for a long time at a crucial point in their development.
  - For example, young people who are experiencing homelessness and being trafficked are often criminalized – treated like a criminal – although they are in fact victims. Not only do they suffer the same effects as adults, but it also builds distrust in systems that should be serving them and drives them to hide from those systems – including homelessness services.
- For all people experiencing homelessness, it can create a **vicious cycle of fines they can’t pay, jail time, a subsequent criminal record**, and back to the streets – where the criminal record makes it even harder to find housing and employment.
- It can also mean the **loss of critical documents like ID** – their belongings are treated like trash and thrown away in sweeps or if they get arrested. Then they have to start the process all over again to get them, and in many cases they lose the connection they may have had to family or friends – photos, phone numbers.
- They also often lose their medicine, making them more vulnerable to illness and cycling into emergency rooms for care.
How are these practices harmful?

Programs

Case managers and program staff also report that **criminalization hurts their efforts to serve people.**

- When belongings and ID are lost, staff must often start from scratch to replace them.
- Case managers can lose track of people they have spent time building relationships and trust with,
- Criminal records make it hard for CMs and housing navigators to connect folks successfully with housing and employment.
- And having to accompany clients to court for fines or other violations like fare evasion and encroachment takes time away from other critical aspects of their jobs.
- Breaks down trust.
How are these practices harmful?

**Systems**

- Contributes to systemic racism, as POC are overrepresented among PEH and people who are incarcerated – this practice can create a cycle between jail and homelessness that is destructive for POC.
- There is a financial cost to these types of actions.
  - Issuing tickets to people who don’t have the funds to pay them or even the funds to get to court **has a cost**. Court time, police time and effort, jail...all **have a cost**.
  - Case management time and the need to build and rebuild relationships and get necessary documentation over and over **has a cost**.
- And most importantly it all **has a human cost** – it contributes to staff turnover and burnout in the homelessness system, and erodes trust that is needed to get people the housing and services they want and need.
On April 22nd 2024, the Supreme Court of the United States will hear the case of Johnson v. Grants Pass. This sets the stage for the most significant Supreme Court case about the rights of homeless people in decades. At its core, this case will decide whether cities are allowed to punish people for things like sleeping outside with a pillow or blanket, even when there are no safe shelter options.

Johnson v. Grants Pass is a court case originally filed in 2018 that determined it is cruel and unusual punishment to arrest or ticket people for sleeping outside when they have no other safe place to go. The case started in Grants Pass, Oregon when the city began issuing tickets to people sleeping in public, even when there were not enough safe, accessible shelter beds.

Grants Pass, like many cities in America, is thousands of housing units short of what is needed. That shortfall will not be solved by putting more people in jail or issuing more tickets. The solution to homelessness is safe, decent, and affordable housing for everybody.
Research

• **Criminalization prolongs homelessness**: Experiences of unsheltered homelessness increases people’s interaction with the justice system because people are so often arrested for “public nuisance” crimes, reporting 21 interactions with police over six months, on average for nuisance.

  • **Reports** show someone’s criminal record, even for misdemeanor “quality of life” crimes like nuisance violations, frequently stands in the way of landlords accepting a tenant application and a housing authority awarding a housing subsidy.

  • **Studies** show fines or tickets issued to people who are unhoused, which people typically cannot afford to pay, results in bench warrants and time in jail, poor credit that interferes with a housing application, and loss of a vehicle acting as home and the only means of transportation to and from work, school, or doctors’ appointments.
Criminalization does not reduce homelessness: Contrary to the deterrence logic, research indicates that local anti-homeless ordinances cannot be relied upon to reduce the number of people experiencing homelessness.

- A 2023 RAND report similarly found laws criminalizing homelessness fail to decrease the number of people experiencing unsheltered homelessness, despite common enforcement through encampment clearing.

- In an analysis by the Urban Institute, researchers found that policing homelessness only pushes people experiencing homelessness into other neighborhoods, jails, and emergency rooms, which ends up being more costly than connecting them to permanent housing.

- A recent report measuring the effectiveness of an ordinance criminalizing people experiencing homelessness, passed as Section 41.18 in Los Angeles in 2021, concludes that 41.18 has failed to achieve any of its goals.
Research

- **Criminalization is an ineffective use of public dollars:** The homelessness-incarceration cycle incurs high local government costs and poor results.
  
  - As just one example, [Los Angeles County tracked](https://ps.psychiatryonline.org/doi/10.1176/appi.ps.202000029) spending $65.5 million in jail costs and $5.6 million in booking fees in 2015 among Angelenos experiencing homelessness charged with “quality of life” crimes proposed. In another example, [empirical evidence](https://www.hfma.org/cost-effectiveness-of-health/how-homelessness-and-healthcare-are-inextricably-linked/) by Abt Associates showed that encampment clearance strategies actually make it more difficult to move residents into shelters or permanent housing and that connecting them to permanent housing is the most cost-effective and humane strategy in the long term.

Criminalization and Homelessness: Long-Term Solutions

**What works:**

- Listen to individuals with lived experience
- Center Housing First
- Invest in housing (interventions and housing stock)
- Invest in upstream prevention and interventions
- Interrogate shelter options
Criminalization and Homelessness: Interim Strategies

• Housing focused outreach
• Low-barrier, housing-focused shelter
• Support services and health/behavioral health services
• Non-congregate shelter
Community Examples

• The greater Houston metropolitan area and The Way Home Continuum of Care (CoC) used the strategy of clearance and closure with supports paired with intensive outreach and engagement along with a coordinated housing surge event.

• Portland, Maine used a cross agency, multi sector response that focused on connecting with every person in the encampment and then either moving them into permanent housing or a temporary/interim housing option.
QUESTIONS