

# Housing Not Handcuffs

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Engaging Law Enforcement In  
Efforts to End Street Homelessness

**NATIONAL LAW CENTER  
ON HOMELESSNESS & POVERTY**

# Framing the Issue

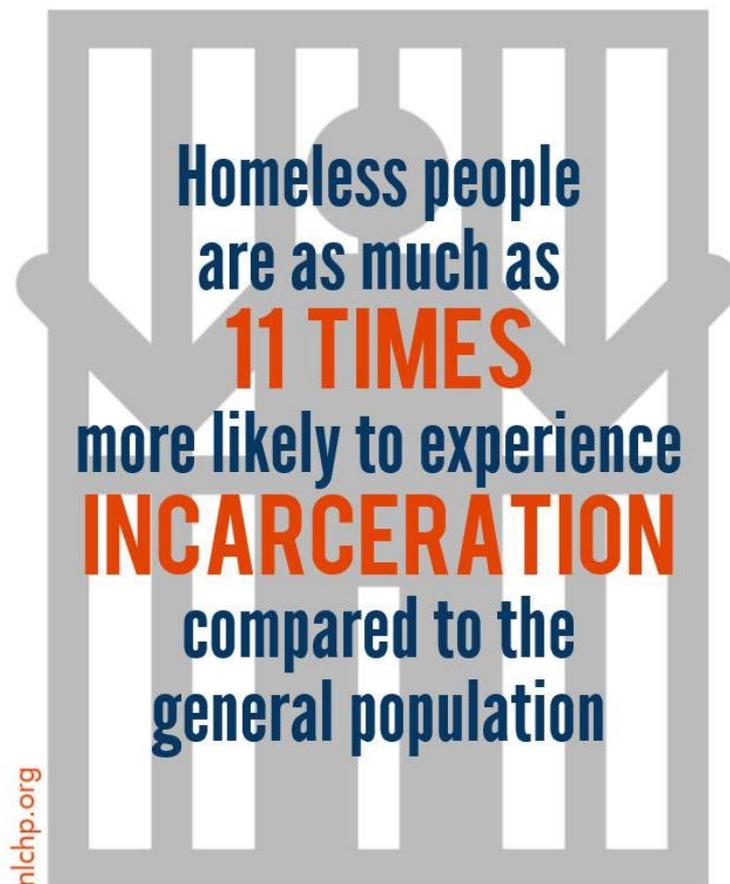
- Why are so many Americans living outdoors, sleeping in cars, or living in homeless shelters?
  - Lack of affordable housing and limited government help
  - Wages not keeping up with cost of housing
  - No funding / programs to provide mental health treatment
  - Youth who have run away from unsafe situations at home
- Housing and social services would be the rational and cost effective response, but at no level of government is the U.S. providing this at appropriate scale

# Framing the Issue

- Law enforcement officials frequently come in contact with homeless persons who are living outdoors, in cars, or in shelters where they cannot stay during the day
- Those contacts can either be helpful or harmful to people experiencing homelessness
- U.S. advocates strongly oppose criminalization of homelessness – the use of law enforcement to harass, threaten, detain, cite, arrest, or otherwise punish homeless persons living in public spaces
- U.S. advocates can support outreach efforts that involve police and are geared towards linking people living outdoors to housing, social services, and other government or private assistance

# Criminalization 101

- What is it?
  - Criminal laws
  - Civil laws
  - Practices that displace homeless people from public places (e.g. “sweeps”)
- Does it work?
  - Ineffective
  - Expensive
  - Often unconstitutional



# Why do communities criminalize?

- Response to pressure from important local interests
  - Business community
  - Tourism interests
  - Homeowners / renters in gentrifying areas
  - Instead of solving problems humanely, politicians pressure law enforcement to “get rid of homeless people in plain sight”

# Impact of Criminalization

- For communities
  - Almost always ineffective – homeless people remain
- For homeless persons
  - May lose jobs / harder to get one
  - Cannot qualify for subsidized or private housing
  - If incarcerated lose all public benefits; must re-qualify when released
  - Felony conviction could deprive individual of voting rights

# Housing Not Handcuffs Report

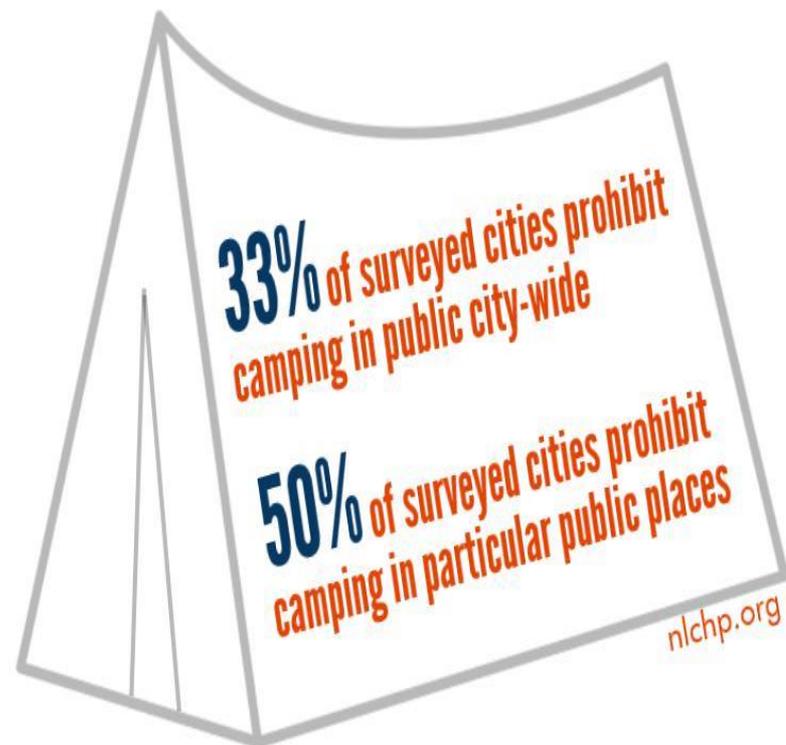
NATIONAL LAW CENTER  
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Changing Laws, Changing Lives

**HOUSING**  
**NOT HANDCUFFS**

- Tracked 187 cities across the country since 2006
- Urban and rural communities
- Only national data on prevalence of laws punishing homelessness
- Dramatic increase in laws punishing homelessness over past 10 years

# Camping in Public

- 33% of cities prohibit camping in public city-wide
  - 69% increase since 2006
- 50% of cities prohibit camping in particular public places
  - 48% increase since 2006



# Sleeping in Public



**18%** of cities prohibit sleeping in public city-wide

**27%** of cities prohibit sleeping in particular public places

- 18% of cities prohibit sleeping in public city-wide
  - 31% increase since 2006
- 27% of cities prohibit sleeping in particular public places
  - 11% decrease since 2006
  - **Only** decrease found for any measured category since 2006

# Sitting and Lying Down

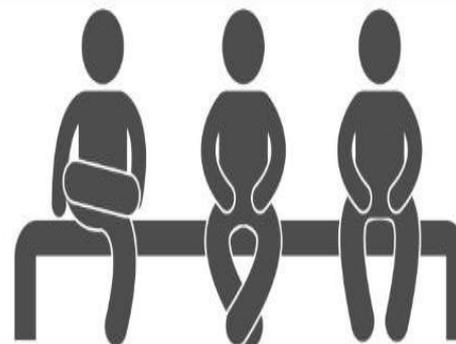


- 47% of cities prohibit sitting and lying down in public.
  - 52% increase since 2006
- Honolulu, HI
  - Highest rate of homelessness per capita
  - Issued a whopping 16,215 warnings and 534 written summons since the law was enacted in late 2014
- Study by University of California Berkeley Law's Policy Advocacy Clinic
  - No effect on economic activity
  - Costly to implement and enforce

# Loitering, Loafing, and Vagrancy

- 32% prohibit loitering, loafing, and vagrancy city-wide
  - 88% increase since 2006
- 54% prohibit loitering, loafing, and vagrancy in particular public places
  - 14% increase since 2006
- “Loitering” is broadly defined
  - Burlington, VT
    - “...remaining idle in essentially one location”
    - “...walking about aimlessly”
  - Newport, RI
    - “...hanging around”

32% of cities prohibit loitering in public city-wide



54% of cities prohibit loitering in particular public places

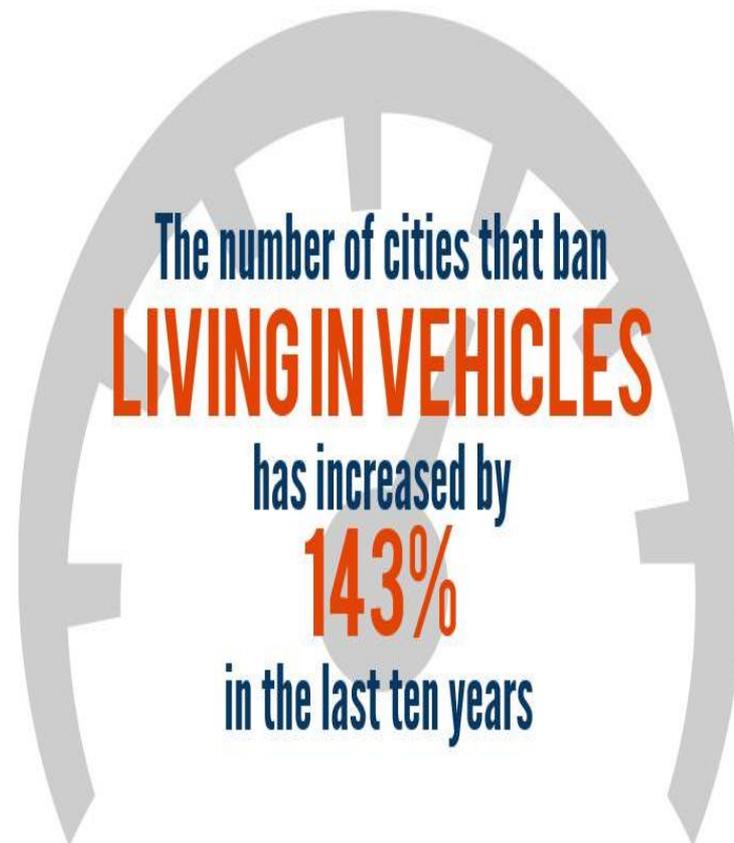
# Panhandling

- 27% of cities prohibit panhandling city-wide
  - 43% increase since 2006
- 61% of cities prohibit panhandling in particular public places
  - 7% increase since 2006
- “Aggressive” panhandling
- Limitations on how and where the action is performed
  - Raleigh, NC
    - Permit to beg
    - Permit process requires photo ID
  - Springfield, IL
    - Restriction of vocal requests
    - Buffer Zones



# Living in Vehicles

- 39% of cities prohibit living in vehicles
  - 143% increase since 2006
  - Most dramatic increase of all categories of prohibited conduct
- Vehicle Impoundment
  - Loss of transportation, shelter, and all belongings
- Drivers license suspension
  - Loss of employment or employment opportunities
  - Creates risk of criminal penalties for driving with suspended license



# Food Sharing



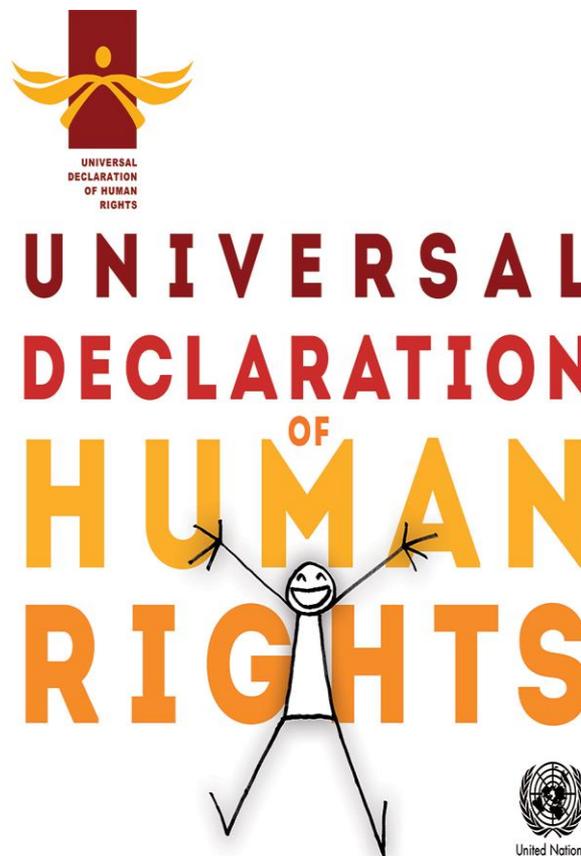
- 6% of cities restrict sharing food in public
- Tracked laws since 2014
- May impose onerous, expensive requirements on faith-based organizations or other service providers
- Creates liability for homeless service providers
- Legal challenges
  - State-level Religious Freedom Restoration Act
  - Religious expression under 1<sup>st</sup> Amendment
  - Unconstitutional restraint on expressive conduct

# Good Law Enforcement Practices

- Repeal laws providing authority to arrest / give citations
- Police should collaborate with outreach workers to help move homeless persons into housing / treatment
- Better police training to help de-escalate potentially violent confrontations with people who have mental illnesses
- Improved police training to understand the legal/constitutional boundaries of their authority.
- Courts working with service providers and using “alternative sentencing” models – dismissing tickets or charges if people accept housing or treatment

# Persuasive Human Rights Theory

- Ratified treaties have the same binding force as federal law (CERD, ICCPR, CAT)
- Cruel, inhuman, degrading treatment
- Freedom of movement
- Equal protection/Freedom from discrimination.
- Freedom from forced evictions



# DOJ Statement of Interest Brief: *Bell v. Boise*

- *Bell v. Boise* lawsuit
- “It should be uncontroversial that punishing conduct that is a universal and unavoidable consequence of being human **violates the Eighth Amendment**...Sleeping is a life-sustaining activity—i.e., it must occur at some time in some place. If a person literally has nowhere else to go, then enforcement of the anti-camping ordinance against that person criminalizes her for being homeless.”
- *Bell* case dismissed on standing grounds, but appeal to the 9<sup>th</sup> Circuit is pending
- Positive impact across the country
  - Successful legal challenges citing to brief or its rationale in WA, CA, and WV



# Successful Challenges to Panhandling Laws



- *Reed v. Town of Gilbert*
  - Content-based restriction subject to strict scrutiny
- *Norton v. City of Springfield* applied rationale of *Reed* to panhandling law
- Since *Norton*, panhandling bans in Worcester and Lowell, Massachusetts; Portland, Maine; Grand Junction, Colorado; and Tampa, Florida were similarly struck down
- Voluntary cessation of panhandling law enforcement in at least four Ohio cities and Madison, WI

# Federal Funding Incentives to Reduce Criminalization

- U.S. Department of Housing & Urban Development
- Funding in 2015 and 2016
- \$1.9 billion in federal homeless assistance grants
- Grants up to 2 points to communities that have implemented specific strategies to prevent criminalization
- Competitive grant
- Loss of a single point can make the difference between receiving funding or not



# U.S. Interagency Council on Homelessness: Guidance on Homeless Encampments

- “Ending Homelessness for People Living in Encampments: Advancing the Dialogue” published in 2015
- Encampments are an indicator of the critical need for more effective responses to the crisis of homelessness
- Forced dispersal of encampments
  - Not an appropriate solution to homelessness
  - Makes it more difficult to achieve lasting housing and service outcomes
- Key actions include:
  - Planning and preparation
  - Engage homeless encampment residents
  - Collaboration across stakeholders
  - Meaningful outreach
  - Low-barrier pathways to permanent housing



**Ending Homelessness for  
People Living in Encampments**  
*Advancing the Dialogue*

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