

Homes Not Handcuffs: The Criminalization of Homelessness in U.S. Cities

Published by the National Coalition for the Homeless, July 2009

OVERVIEW OF THE NATIONAL PROBLEM

The housing and homelessness crisis in the United States has worsened with many cities reporting an increase in demands for emergency shelter. On March 27, 2008, CBS News reported that 38 percent of foreclosures involved rental properties, affecting at least 168,000 households.¹ The Sarasota, Florida, Herald Tribune noted that, by some estimates, more than 311,000 tenants nationwide have been evicted from homes this year after lenders took over the properties.² In 2007, ten of the 23 cities surveyed by the U.S. Conference of Mayors reported an increase in the number of households with children accessing shelters and transitional housing. Six of these 23 cities also reported an increase in the number of individuals accessing these services.³ Even while the requests for emergency shelter increase, cities do not have adequate shelter space to meet the need. In the 23 cities surveyed in the U.S. Conference of Mayors Hunger and Homelessness Survey for 2007, 12 cities noted that they had to turn people away because of a lack of capacity often or always.¹ The lack of available shelter space – a situation made worse by the Gulf Coast hurricanes - leaves many homeless persons with no choice but to struggle to survive on the streets of our cities. Over the course of the year, 3.5 million Americans will experience homelessness,⁴ and this number is only expected to increase over the next year due to the foreclosure crisis, increases in poverty, and a pattern of steady increases in family homelessness.⁵

AN UNJUST RESPONSE TO THE PROBLEM

An unfortunate trend in cities around the country over the past 25 years has been to turn to the criminal justice system to respond to people living in public spaces. This trend includes measures that target homeless people by making it illegal to perform life-sustaining activities in public. These measures prohibit activities such as sleeping/camping, eating, sitting, and begging in public spaces, usually including criminal penalties for violation of these laws.

¹ National Coalition for the Homeless, *NCH Public Policy Recommendations: Foreclosure and Homelessness Prevention*, available at www.nationalhomeless.org/publications/facts/2008Policy/Foreclosure.pdf; National Law Center on Homelessness & Poverty, *Indicators of Increasing Homelessness Due to the Foreclosure and Economic Crises* (2009), available at http://www.nlchp.org/view_report.cfm?id=288.

² Kate Spinner, *You're Paying; Is Your Landlord?*, Herald Tribune, Dec. 1, 2008, available at http://www.heraldtribune.com/article/20081201/ARTICLE/812010376/2055/NEWS?Title=You_re_paying_Is_the_landlord.

³ U.S. Conference of Mayors, *A Status Report on Hunger and Homelessness in America's Cities: A 23-City Survey* (2007).

⁴ Martha Burt et al., *Helping America's Homeless* 49-50 (The Urban Institute Press, 2001).

⁵ U.S. Conference of Mayors, *A Status Report on Hunger and Homelessness in America's Cities: A 23-City Survey* (2007).

TYPES OF CRIMINALIZATION MEASURES

The criminalization of homelessness takes many forms, including:

- Legislation that makes it illegal to sleep, sit, or store personal belongings in public spaces in cities where people are forced to live in public spaces;
- Selective enforcement of more neutral laws, such as loitering or open container laws, against homeless persons;
- Sweeps of city areas where homeless persons are living to drive them out of the area, frequently resulting in the destruction of those persons' personal property, including important personal documents and medication; and
- Laws that punish people for begging or panhandling to move poor or homeless persons out of a city or downtown area.

CRIMINALIZATION ON THE RISE

City ordinances frequently serve as a prominent tool to criminalize homelessness. Of the 235 cities surveyed for our report:

- 33% prohibit “camping” in particular public places in the city and 17% have city-wide prohibitions on “camping.”
- 30% prohibit sitting/lying in certain public places.
- 47% prohibit loitering in particular public areas and 19% prohibit loitering citywide.
- 47% prohibit begging in particular public places; 49% prohibit aggressive panhandling and 23% have citywide prohibitions on begging.

The trend of criminalizing homelessness appears to be growing. Of the 224 cities surveyed in both NCH and NLCHP's last joint report in 2006 and in this report:

- There has been a 7% increase in laws prohibiting “camping” in particular public places.
- There has been an 11% increase in laws prohibiting loitering in particular public places.
- There has been a 6% increase in laws prohibiting begging in particular public places and a 5% increase in laws prohibiting aggressive panhandling.

Another trend documented in the report is increased city efforts to target homeless persons indirectly by placing restrictions on providers serving food to poor and homeless persons in public spaces.

While cities are cracking down on homeless persons living in public spaces, according to the latest U.S. Conference of Mayors Hunger and Homelessness report, cities do not have adequate shelter to meet the need.

THE MEANEST CITIES

Although several of the report's top 10 meanest cities have made some efforts to address homelessness in their communities, the punitive practices highlighted in the report impede progress in solving the problem. The top 10 meanest cities were chosen based on the number of anti-homeless laws in the city, the enforcement of those laws and severities of penalties, the general political climate toward homeless people

in the city, local advocate support for the meanest designation, the city's history of criminalization measures, and the existence of pending or recently enacted criminalization legislation in the city.

- 1. Los Angeles, CA**
- 2. St. Petersburg, FL**
- 3. Orlando, FL**
- 4. Atlanta, GA**
- 5. Gainesville, FL**
- 6. Kalamazoo, MI**
- 7. San Francisco, CA**
- 8. Honolulu, HI**
- 9. Bradenton, FL**
- 10. Berkeley, CA**

The Criminalization of Homelessness report comes out every two years.
The entire report is available on NCH's website: (www.nationalhomeless.org).

Source: National Coalition for the Homeless (NCH) and National Law Center on Homelessness & Poverty (NLCHP), *Illegal to be Homeless: The Criminalization of Homelessness in the United States* (2002); NCH, *Illegal to be Homeless: The Criminalization of Homelessness in the United States* (2003); NCH, *Illegal to be Homeless: The Criminalization of Homelessness in the United States* (2004); NCH and NLCHP, *A Dream Denied: The Criminalization of Homelessness in U.S. Cities* (2006); NCH and NLCHP, *Homes not Handcuffs: The Criminalization of Homelessness in U.S. Cities* (2009).