

# Without Housing, Without Rights

By Western Regional Advocacy Project

**T**he federal government created the contemporary crisis of mass homelessness by cutting and refusing to restore billions and billions of dollars in funding for affordable housing programs, starting in the early 1980s and continuing to today. On top of this, every Congress and administration since then has focused on homeless people themselves as the cause of the problem, in the process institutionalizing the idea that “fixing” the broken people—rather than the broken system they dismantled—is the solution.

Since the emergence of mass homelessness in 1982, every federal plan to address homelessness—Federal Emergency Management Agency (FEMA) emergency shelter plans, Department of Housing and Urban Development (HUD) Continuum of Care plans, 10-Year Plans to End Homelessness spearheaded by the Bush administration’s Interagency Council on Homelessness (ICH)—has been based on the assumption that homelessness re-emerged in the 1980s because something was wrong with the people who were finding themselves without housing.

The federal government has required local communities to submit competitive applications for federal largesse, and to show that they could effectively address the “problems of homelessness in America” within the grant amounts allocated. So, local governments did just that: they formed committees, created task forces, hired tons of consultants, and wrote grant after grant and plan after plan showing how they could address the problem if only the feds would give them the lion’s share of the little money available.

Unfortunately, while the federal government does fund “homeless assistance” programs at the state and local level, the \$1.4 billion total allocation for these programs pales in comparison to the \$54 billion reduction (in 2004 constant dollars) in annual spending on affordable housing programs. As a result of these skewed priorities, local governments are more and more hard-pressed to shelter—much less house—the ever-increasing homeless population, and many

have turned to draconian measures to solve their “homeless problems.”

## From “Quality of Life” to Economic Cleansing

Local efforts to deal with growing homeless populations often start with innocuous-sounding language about the “quality of life” of the housed and business sectors of the community, or perhaps are billed as an effort to ensure that communities don’t become a “magnet for the homeless.” But over time, more laws and ordinances get passed, and as these are implemented, it is only under very stringent “time, place and manner” restrictions that are enforced by private security and local and state police departments that homeless people are tolerated—if at all.

By the early 1990s, the business sector began to join forces with local governments to enforce open space and activities restrictions. Business Improvement Districts (BIDs) use private security that has various levels of enforcement authority and works with local police. BID security is most commonly financed with some form of government subsidy, direct funding, or a combination of both, but it is not under the purview of any government oversight body.

According to the non-profit organization Religious Witness with Homeless People, (RWHP) homeless individuals face anxiety, degradation, and frustration as a result of the aggressive enforcement of “quality of life” ordinances. This anxiety is expressed by one homeless individual in one of nearly 200 interviews

conducted by RWHP: “You’re always on edge out here already because it’s dangerous. I can’t go to the cops now because they’ll probably just arrest me because of the (camping) tickets.”

This type of ticket is not uncommon. The most common public space and activity restrictions are those aimed at camping, sitting, lying, or trespassing on either public or private land, panhandling, sleeping, blocking the sidewalk and possessing “stolen property,” such as shopping carts and milk crates—to name just a few. Furthermore, these restrictions are often implemented in conjunction with the closure of public parks and the outlawing of free food and clothing distribution.

While certain communities highlight different controls at different times, often depending upon the outcome of local elections and legislative and court efforts, all have one primary common goal: to remove the presence and resulting impact of people without housing from local communities. As the Mayor of Las Vegas recently stated when she outlawed feeding people in city parks: “If we stop feeding them, they will leave.”

This nationwide pattern has escaped Civil Rights protections because on their face, these programs are not clearly discriminatory. Local laws are often drafted in such a way as to appear to apply equally to all people in a community. In fact, however, enforcement is very much impacted by both skin color and appearance.

Local governments cannot legally discriminate against people strictly because they do not have housing. Federal protections prohibit local and state governments from removing people from their communities due to the color of their skin or economic/employment status. California’s “anti-Okie” laws of the 1930s and the South’s Jim Crow laws in effect from the late 1800s to the 1950s are examples of the kinds of local laws overturned in previous generations. Yet, modern “quality of life” legislation and enforcement targeting homeless people can be found in communities across the nation.

### **Infractions and Due Process Rights**

Anti-homeless laws and ordinances and their application have, in fact, created a loophole that



allows for the circumvention of a homeless person’s right to due process under law. The process by which homeless people face repeated incarceration generally follows this scenario:

A homeless man is sleeping on the sidewalk. A local ordinance makes it illegal to do so. The man gets a ticket and is later arrested for not paying the ticket. He spends a couple of days in jail, and is just as homeless now as he was before, only now he has a criminal record. This was the case for many of the individuals interviewed by RWHP. One man relayed the familiar scenario, “I was sleeping in a tent in a hidden spot near the freeway. They gave me a ticket for trespassing. I don’t have money to pay it. I’ve never been in jail before. I keep to myself, but now they’re going to make me a convict just for sleeping.” Another anonymous man related his experience: “They wake me up in the morning and threaten to arrest me if I don’t stand up and start walking. The drop-in centers are all full, so I either walk or get ticketed again. I can’t walk all day long. You can’t think straight when you’re this tired.”

The overwhelming majority of the thousands and thousands of homeless people incarcerated under these laws are jailed for not responding to the tickets they were given, but not for the offense they committed in the first place. Because that original offense did not carry a jail penalty, they are not entitled to the free representation provided by the Public Defender’s office. If they are going to fight the ticket in court at all, they will have to do it alone and in the belly of the very system (criminal justice) that is trying to get rid of them in the first place. More often than not, the government, through the local District Attorney

or a police officer trained in court presentation, will have representation, but the homeless person will not.

This chasm in “due process rights under law” for poor and homeless people is exploited by local governments and business interests to remove people from neighborhoods and communities where they are unwanted. Because the state defines itself the “owner” of public space, it enforces discriminatory time, place, and manner restrictions and works with local private property owners to do the same. People without housing are left with no other options but to keep walking, get very lucky, or wind up in jail.

Additionally, homeless individuals who have an active warrant for minor offenses, such as sleeping in public, are often prevented from getting the services needed to exit homelessness. Due to warrants, they can be denied public housing or lose social security benefits, general assistance benefits, a place in a treatment program, and employment opportunities.

When local governments initiate new programs designed to remove people from their communities, it becomes a civil and human rights issue that cannot be overcome solely by those being targeted. Only the combined skills, resources and talents of many communities working in concert with each other can stop this trend.

### The Real Crime

**Fact:** Compared to 1978, the United States government is now spending nearly 65 percent less on developing and maintaining affordable housing for poor people. (\$83 billion was appropriated in 1978, while only \$29 billion was allocated in 2005.)

**Fact:** Compared to 1978, the United States government now spends \$84 billion more on subsidies for homeownership programs than on affordable housing for poor people. (It spent \$38 billion in 1978 on these subsidies for middle-class and affluent homeowners versus \$122 billion in 2005.)

**Fact:** In 2004, 61 percent of all federal housing subsidies went to households earning over \$54,787 per year, while only 20 percent of those subsidies went to households earning less than \$18,465 annually. The 2004 federal poverty threshold for a household of four with two minor children was \$19,157.

**Fact:** Approximately five percent of the United States population has a serious mental illness. However, the Department of Justice reports that about 16 percent of the population in prison or jail has a mental illness. Moreover, inmates with mental illness in state prison were 2.5 times as likely to have been homeless in the year preceding their arrest than inmates without a mental illness.

There is a direct correlation between the federal government’s decision in the late 1970s and early 1980s to redirect expenditures for housing from rental assistance for poor people to homeownership—a trend that continues to today—and the subsequent re-emergence of homelessness in America in the early 1980s.

If our federally mandated housing and homelessness plans (FEMA, HUD, and ICH) and our locally politicized campaigns had focused on addressing “what created this mess” in the first place, the ludicrous current attempts to fill a \$54 billion housing hole with a mere \$1.4 billion of annual homelessness assistance funding would have drawn ridicule long ago.

Life skills training courses for a homeless person do not compensate for the fact that in the 20 years from 1983 to 2002, the United States government built 500,000 fewer units of affordable housing than it did in the seven years from 1976-1982. Money management classes for a rural parent do not compensate for the 35,000 fewer affordable units being built in rural America each year. Better outreach and case management may be good things, but they are unrelated to our nation’s massive reemergence of homelessness. Will the repressive policing of homeless people for sleeping and living on our streets ever create enough housing to make up for a \$54 billion cutback from the federal government? No.

If we want to address homelessness in America, we need to stop looking at homeless people, at “them,” and we need to start looking at us. If we believe our government represents us, it is we, the people, who must pressure our senators and congressional representatives to make a real economic commitment to restore funding for affordable housing. Outlawing homelessness won’t make it go away; nothing ends homelessness like a home. ■

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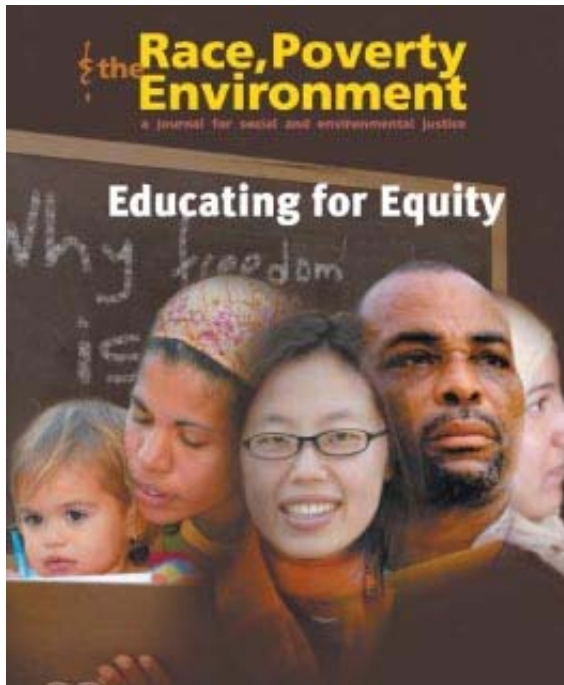
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