

Colorado Right to Rest Act Cost analysis



Study Provided By Sturm School of Law, Homeless Advocacy Policy Project

LIKE MOST OF AMERICA, COLORADO FACES A HOMELESS EPIDEMIC¹. Amidst a stark rise in housing costs and equally sharp drop in available affordable housing, Colorado's cities struggle to address the overwhelming needs of its homeless residents. While professing a dedication to eliminating homelessness through homeless and poverty services, state actors continue to write, pass, and enforce local ordinances that criminalize life-sustaining behaviors. Laws that criminalize panhandling, begging, camping, sitting or lying in public, and vagrancy target and disproportionately impact residents that are homeless for activities they must perform in the course of daily living.

This Report examines how laws criminalizing homeless people for being homeless have become widespread in Colorado. Through a comprehensive analysis of the enforcement of anti-homeless laws, this Report also examines the cost—economic and social—anti-homeless laws impose upon all Colorado citizens.

In the process of examining trends across branches of government and across the state, we found similarities between the constitutional challenges to anti-homeless laws and other discriminatory legal frameworks that criminalized people for their identities or statuses. Ordinances punishing people without homes for behaviors necessary to their daily lived existence will soon become another chapter in a shameful history of invalidated laws, such as Anti-Okie Laws, Jim Crow Laws, “Ugly Laws,” and Sundown Laws. Federal courts have begun to recognize the dubious constitutionality of anti-homeless laws, and, in turn, municipalities like Denver and Boulder have begun re-examining how they enforce anti-homeless ordinances. But the data still reveal a trend: a startling high number of ordinances enforced at an alarming rate which comes with a high price tag for Colorado.

To analyze statewide trends, we identified 76 cities in Colorado based on population and geographic diversity, which represent roughly 70% of the state's population. We surveyed these 76 municipal codes and identified numerous anti-homeless ordinances that target those without homes, such as: sitting, sleeping, lying, or storing belongings in public prohibitions; restrictions on begging or panhandling; camping bans; loitering and vagrancy prohibitions; and trespass, park closure, and sanitation laws. Based on this research, we have come to following conclusions:

- **Colorado's 76 largest cities have 351 anti-homeless ordinances;**
- **Cities criminalize homelessness in a variety of ways;**
- **Adopted ordinances inspire similar ordinances in other municipalities; and**
- **Ordinances lack clarity and obstruct government transparency and accountability.**

From the 76 surveyed cities, we selected 23 cities for more in-depth research using Open Records Requests to examine how anti-homeless ordinances are enforced. We found:

- Cities issue citations to homeless residents at a staggering rate. For example, **30% of all citations that Grand Junction issued are pursuant to an anti-homeless ordinance.** Fort Collins issues citations to homeless individuals at the rate of two citations per homeless resident per year. Colorado Springs has doubled the rate at which they enforce anti-homeless ordinances between 2010 and 2014.
- Many cities aggressively target homeless residents for panhandling and for trespassing. Fewer than half of the cities surveyed have restrictions on begging or panhandling, yet **Denver arrested nearly 300 homeless individuals in 2014 for panhandling.** Between 2013 and 2014, Denver issued over 2,000 trespass citations to homeless individuals. This represents more than half of all trespass citations in the city even though homeless residents are only 0.05% of the population.

- Some cities use camping bans to target homeless residents. **Boulder stands out in issuing camping ban citations by issuing 1,767 between 2010 and 2014**—as compared with Denver, which issued fifteen in the same time frame, or Durango, which issued zero. Boulder issued camping ban citations at a rate of two citations per homeless resident. Eighty-seven percent of Boulder’s camping citations were issued to homeless residents.
- Several cities fail to track how anti-homeless citations are enforced against individuals who are homeless—this includes Durango, Pueblo, Colorado Springs, and Aurora. **Because most cities also do not track “move on” orders, the data provided by the cities do not address how these widely used policing tactics impact homeless residents’ lives.**
- Cities do not provide sufficient services for their homeless populations. For example, **Fort Collins provides 118 shelter beds for over 400 homeless residents.** On its best night, **Boulder provides 280 beds for 440 homeless residents.** Some cities, like Grand Junction, have limited services and publicize their attempts to deter people who are homeless from coming to their city.

A major contribution of Too High A Price is that it comprehensively analyzes the cost of anti-homeless ordinances by calculating the cost of policing, adjudication, and incarceration. By studying the enforcement of five anti-homeless ordinances in Denver, we found that **in 2014 alone, Denver spent nearly three-quarters of a million dollars (\$750,000.00) enforcing these ordinances.** We estimate that just six Colorado cities spent a minimum of five million dollars (\$5,000,000.00) enforcing fourteen anti-homeless ordinances over a five-year period. For reasons discussed in the report, this number is significantly under-inclusive. **Reducing or eliminating anti-homeless ordinances would achieve governmental goals of reducing ineffective spending; expanding efficient homelessness services and prevention; and reducing collateral consequences and implicit social costs associated with criminalizing homelessness.**

Too High A Price also includes seven separate City Spotlight Reports that takes a deeper dive into the criminalization of homelessness in the cities of Denver, Boulder, Colorado Springs, Durango, Fort Collins, Grand Junction, and Pueblo. With these case studies, this Report also shows that judicial action alone is not enough to stop the unconstitutional criminalization of homeless people. Despite recent court decisions invalidating panhandling ordinances as unconstitutional, Colorado cities enforce other more facially-neutral ordinances in a way that disparately impacts homeless people. Because so many cities have such ordinances, the Colorado state legislature must step in and enact legislation that establishes affirmative rights for homeless individuals at the state level. The Right to Rest Act, Colorado House Bill HB-16-1191, introduced by Representatives Salazar and Melton in February 2016, will help combat the disparate impact of these ordinances in Colorado’s communities.

1. The number of homeless Americans in 2014 was an estimated 578,424. Colorado saw a 2.8 percent increase in the number of homeless residents from 2013 to 2014. The State of Homelessness in America 2015, National Alliance To End Homelessness, available at http://www.endhomelessness.org/page/-/files/State_of_Homelessness_2015_FINAL_online.pdf.



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