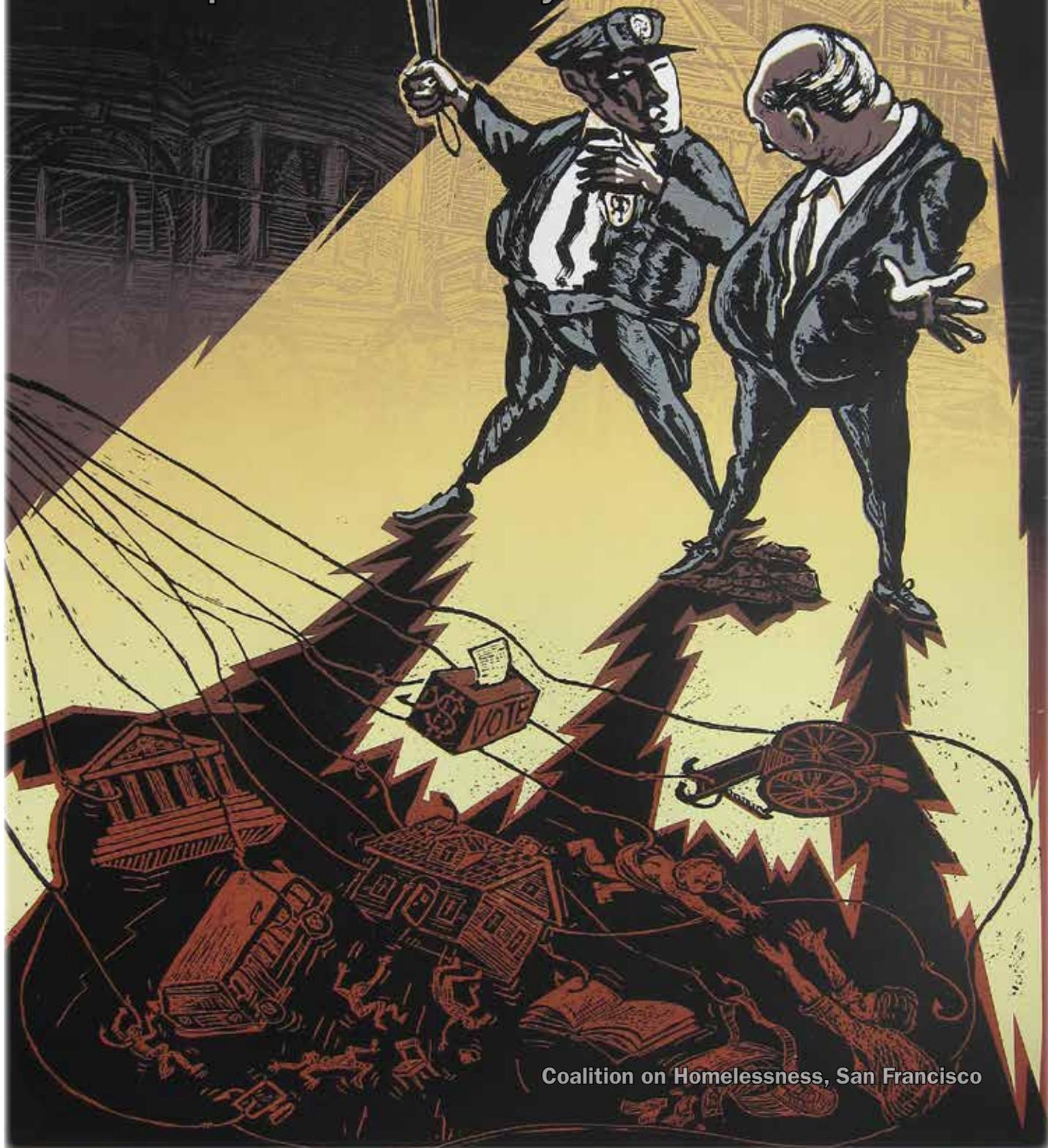


Punishing the Poorest

How the Criminalization of Homelessness
Perpetuates Poverty in San Francisco



Coalition on Homelessness, San Francisco

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We dedicate this report to the countless individuals who have been targeted, harassed, caged, and entrenched in the system for merely existing. Your struggle for survival and commitment to justice is what keeps us fighting for and demanding a better City. Many of you have risked a lot by sharing these stories and we appreciate you trusting us with these delicate details. We offer this report as documentation of the ways we have failed as a City to respond to basic needs and a guide for beginning to repair the damage.

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Cover Image: Art Hazelwood and Jos Sances

About the SF Coalition on Homelessness: The Coalition on Homelessness is comprised of homeless people and allies who have been organizing together since 1987 to expand access to housing in one of the richest cities in the country, to protect the rights of the poorest people in our society, and to create real solutions to contemporary homelessness.



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Executive Summary

“I have to hide like a dog at night.”

—Oscar, homeless in San Francisco

This report details the effects of criminalization on the homeless residents of San Francisco. Since 1981, San Francisco has passed more local measures to criminalize sleeping, sitting, or panhandling in public spaces than any other city in the state of California.¹ During this same period, the United States has experienced the greatest expansion of its jail and prison system under any democracy in history. This expansion has primarily affected the poorest members of this society.² This report documents and analyzes the impacts of the rising tide of anti-homeless laws in our era of mass incarceration on those experiencing homelessness in San Francisco.

This portrait of the impact of criminalization on homelessness in San Francisco is based on a citywide survey of 351 homeless individuals and 43 in-depth interviews carried out by volunteers at the Coalition on Homelessness and supervised by researchers at the UC Berkeley Center on Human Rights. It also analyzes data on policy, citations, and arrests received from the San Francisco Police Department, the Sheriff’s Office, the Human Services Agency, and the Recreation and Park Department. The report provides an in-depth analysis of each step in the criminalization of homelessness—from interactions with law enforcement, to the issuance and processing of citations, to incarceration and release. The study makes evident how criminalization not only fails to reduce homelessness in public space, but also perpetuates homelessness, racial and gender inequality, and poverty even once one has exited homelessness.

The aim of this study is to provide sound empirical data on the impacts of the criminalization of homelessness in San Francisco, while also giving voice to the experiences of those whose housing status results in their regularly being processed through the city’s criminal justice system. Our hope is that these findings will inform public discussions and provide the basis for thoughtful policy approaches to these issues. Below we present some of the most important findings from the San Francisco Homeless Criminalization Survey.

Our Key Findings

Homeless people are frequently approached by police in public spaces.

- 74% of respondents reported being approached by police in a public space in the last year.
- 20% of respondents reported being approached four or more times in the past month.
- 12% of respondents reported being approached at least twice a week throughout the year.

Homeless people are forced to move by law enforcement for being in public even when they have no other alternatives.

- 70% of respondents had been forced to move from a public space.
- For those forced to move, homelessness and housing status proved significant. In the past year 93% of those camping, 88% residing on the streets, 80% residing in vehicles, 72% staying with friends and families, 61% of those in shelter, and 55% of those currently in a residential hotel had been forced to move from public space.

Anti-homeless laws are ineffective in moving homeless people out of public space or prohibiting targeted “criminal” activities such as sitting, standing, or sleeping.

- When respondents were asked to move from a public space, 70% of the time they simply moved down the street or around the corner, stayed in the same spot, or walked around to return after the police had left.

¹ UC Berkeley Law School Policy Advocacy Clinic. [California’s New Vagrancy Laws: The Growing Enactment and Enforcement of Anti-Homeless Laws in the Golden State](#) (2015).

² Bruce Western. *Punishment and inequality in America* (Russell Sage Foundation, 2006).

- 22% of respondents moved to a different neighborhood when they were asked to move. However, the survey results showed that there was no unidirectional pattern, but rather a churning between neighborhoods and police districts.
- Only 9% of respondents reported that they moved indoors the last time they were forced to move.

Police interactions do not result in connection to services.

- The SFPD is far and away the largest displacer—accounting for 84% of displacements, 204 of the 244 most recent displacements reported by respondents.
- Services or even information on services were rarely offered by the SFPD. Only 24 out of the 204 respondents who reported being forced to move were offered services—most often a pamphlet, shelter bed, or sandwich.

Most homeless respondents were searched by police in the past year.

- 56% of respondents reported having been searched while homeless. 21% reported that they had been searched within the month.
- 46% of respondents reported having their belongings taken by City officials while homeless and 38% reported having belongings destroyed by City officials.

“Quality of life” citations affected the majority of homeless respondents.

- 69% of respondents were cited in the past year.
- 22% of respondents received more than five citations in the past year.
- 90% of respondents were unable to pay the fine for their last citation.
- Due to non-payment, 68% of respondents reported that they were not able to pay their last citation. In San Francisco this results in a \$300 civil assessment fee being added to the base fine, an arrest warrant, and suspension of one’s driver’s license.
- Respondents noted that citations create barriers to exiting homelessness, negatively affecting access to jobs, housing, and services.

Most “quality of life” citations in San Francisco are aimed at activities associated with homelessness.

- Between October 2006 and March 2014, the SFPD issued 51,757 citations for “quality of life crimes,” of which over 22,000 were for sleeping, sitting, or begging.
- More citations were given for sleeping and sitting than any other prohibited activities categorized as “quality of life” between 2007–2013.
- Enforcement is increasingly aimed at sleeping, sitting, and begging, accounting for 70% of all “quality of life” citations in 2013 (the last year in which records were kept.)

Citations for anti-homeless offenses have increased over threefold since 2011.

- Citations for anti-homeless laws are on the rise. Parks citations for sleeping and camping have grown sixfold from 165 citations to 963 between 2011 and 2014. SFPD citations for sleeping, sitting, and begging increased threefold from 1,231 tickets in 2011 to 3,350 in 2013.

Incarceration perpetuates homelessness.

- 59% of respondents had been incarcerated in SF County Jail or California State Prison during their life and 44% of respondents had experienced multiple incarcerations, mainly in the last three years.
- 11% of respondents reported that they had been housed at the time of their most recent arrest, and became homeless upon release from jail or prison.
- An estimated 25% of San Franciscans on probation are homeless.

- 81% of respondents were not offered any services upon their most recent release from jail or prison. Of the 19% who were offered services, the most common were, in order: a pamphlet, a bus ticket, a shelter bed, or access to a housing wait list.

Criminalization disproportionately affected people of color, gender non-conforming people, and those with mental illness.

- People of color were approached more frequently by police: 81% of Black respondents and 84% of Latino, Native American and other non-Asian respondents of color had been approached by police, compared to 77% of white respondents and 69% of Asian respondents.
- Black respondents reported the highest rate of past incarceration: 74% of Black respondents had been incarcerated, compared to 51% of white respondents.
- Forced displacement from public space disproportionately threatened the safety of gender non-conforming people who participated in this study: 59% of gender non-conforming participants felt less safe after they were forced to move.
- Those who identified as having mental disabilities reported higher rates of being approached by the police (+10%) and higher rates of failure to address citations (+10%).

Policy Framework

The management of homelessness in public space is a complex issue for a society that tolerates mass homelessness, yet that desires public spaces clear of visible poverty. Mix this impossible situation into a society that systematically punishes its poorest residents and the outcome is devastating for those experiencing homelessness. This is an ineffective and costly policy approach.

Specific policy recommendations are offered in each section of the report and summarized in the conclusion. The overarching recommendation drawn from this study is to move away from matching increased investments in homeless services with increased criminalization toward a model that redoubles the City’s investments in housing and services while reducing the criminalization of homelessness and poverty.

A practical approach to this policy framework would be to repeal the existing anti-homeless laws at the state level, reduce enforcement of existing anti-homeless laws, and extend the civil and human rights that are protected for housed San Franciscans to those who do not have access to homes. Alternatives to the issuance of citations and incarceration for non-violent crimes committed by homeless people, such as the provision of housing and services, would both help people resolve their homelessness and save the City millions in criminal justice expenditures.

While these recommendations are drawn from our survey findings, they are far from novel, and are the primary recommendations from the Federal Interagency Council on Homelessness, the Department of Justice, and the Department of Housing and Urban Development.³ The Right to Rest Act will be heard in California’s legislature next year to address both of these issues on the state level, but the City can realize these recommendations on its own by taking a series of concrete actions laid out in this report and conclusion.

However, fully responding to the myriad problems in the criminalization of homelessness also requires a broader policy approach that includes:

- Increased investment in affordable housing.
- Increased investment in supportive health and mental health services for seniors and those with disabilities *without* arrest or law enforcement engagement.
- Reforms to the fines, fees, and court-ordered debts applied to low-income individuals.
- Avoiding unnecessary investment in excessive police personnel and jail facilities.

³ US Interagency Council on Homelessness. [Searching Out Solutions: Constructive Alternatives to the Criminalization of Homelessness](#) (2012).

Introduction

“It’s hard to get sleep in this town. I mean you can go two days without eating all right, but going without sleep is much much worse.”

—43-year-old, African American woman with a disability, living under the Bay Bridge

San Francisco is widely considered a liberal city in its provision of care and services to those experiencing homelessness. It has spent about \$1.5 billion on homeless services in the last decade, and has six times more supportive housing units per capita than cities like New York, LA, and San Jose. In the last 10 years, it has built 2,699 units of long-term supportive housing and housed 11,362 formerly homeless people. With its armies of volunteers, network of soup kitchens, and host of service programs that have been replicated elsewhere—such as Project Homeless Connect, the Homeless Outreach Team, and Collaborative Courts—San Francisco has become considered a national leader in responding to homelessness with a caring hand in the eyes of experts and the general public alike.⁴

However, San Francisco has also long been, and remains, a national leader in responding to homelessness with a punitive fist. Over the past 35 years, San Francisco has passed more municipal ordinances banning life-sustaining activities than any other city in California.⁵ This set of laws makes it illegal for homeless San Franciscans to sleep or sit on sidewalks, to slumber in parks or in their personal vehicles, and to use any form of shelter from the cold, sun, or rain other than their clothing. All of this, despite the fact that there is only one shelter bed for every six homeless people in the city.⁶ While the enforcement of these laws varies over time, the criminalization of homelessness has been constant. Since 2011, citations for sleeping, sitting, and begging have more than tripled.⁷ Over this same period San Francisco has seen waves of “quality-of-life” policing campaigns, and experienced the explosion of mass incarceration. This report documents the impact and results of this growing criminalization of the city’s poorest residents.

To contextualize San Francisco’s ongoing and increasing criminalization of homelessness, this introduction explains how homelessness is criminalized, surveys state and national trends, and provides a historical overview of San Francisco’s punitive policies towards the houseless. This background helps make sense of the report’s survey and interview findings on how the criminal justice system impacts, perpetuates, and produces homelessness.

How is Homelessness Criminalized?

Vagabonds, paupers, beggars, and the “wandering poor” have always faced criminalization in the United States. However, since the 1980s, homelessness has been criminalized through new methods of punishment and regulation. Today’s homelessness is criminalized through (a) anti-homeless laws, (b) “quality-of-life” policing campaigns, and (c) the mass incarceration of the extremely poor amidst welfare-state retrenchment.

Anti-Homeless Laws

Legal scholars have labeled the laws prohibiting homeless people’s life-sustaining activities “anti-homeless” laws. This report adopts the definition of a recent UC Berkeley School of Law report, which restricts this label to laws prohibiting four sets of activities: (1) standing, sitting, and resting in public spaces, including loitering and “vagrancy” (daytime restrictions); (2) sleeping, camping, and lodging including in vehicles (nighttime restrictions); (3) begging and panhandling; (4) and food sharing.⁸

4 San Francisco Office of Budget and Legislative Analyst, *Homeless Services and Benefits Provided by the City of San Francisco*. 2014; See Gary Kamiya’s “*The Outsiders*” (*SF Magazine*: February, 2015) of the common mischaracterization that poses San Francisco in opposition to “most other cities,” drawing particularly on New York, which “criminalizes its homeless.”

5 UC Berkeley Law School Policy Advocacy Clinic, *California’s New Vagrancy Laws: The growing enactment and enforcement of anti-homeless laws in the Golden State* (2015).

6 Applied Survey Research, *2013 San Francisco Homeless Point in Time Count* (2013).

7 HSA, “Year to Year Citations,” information request (January 20, 2015); Rec and Parks, “Park Rangers Citation Log 2011-2014,” information request (May 10, 2015).

8 UC Berkeley Law School Policy Advocacy Clinic, *supra* note 5.

Criminalizing Homelessness: Anti-Homeless Ordinances, “Quality of Life Ordinances,” and Disproportional Impact

What does criminalizing homelessness mean? This report looks at three factors of how the criminal justice system affects homelessness: (a) Anti-Homeless Ordinances (b) Quality of Life Ordinances, and (c) Disproportionate Impact of the criminal justice system on those experiencing homelessness.

Anti-Homeless Ordinances: Laws that prohibit life-sustaining activities that homeless people have little choice but to undertake in public: (1) standing, sitting, and resting in public spaces, including loitering and “vagrancy” (daytime restrictions); (2) sleeping, camping, and lodging including in vehicles (nighttime restrictions); (3) begging and panhandling; (4) and food sharing.

Quality of Life Ordinances: Low-level non-violent crimes of activities frequently considered nuisances and are mainly intended to regulate “uncivil behavior” and “public disorder” in public spaces. These include the various anti-homeless laws, but also restrictions on drinking in public, dogs not leashed, climbing trees, smoking in parks, littering, or unlicensed vending among others. Because “quality of life” laws mainly prohibit activities that would be non-criminal were they to occur on private property or within one’s home, those experiencing homelessness are disproportionately impacted, if not discriminately targeted in their enforcement.

Disproportional Impact: The ways by which homeless people are put at a disadvantage within the criminal justice system compared to those who are housed or are of higher-class status. This includes police harassment and citation of anti-homeless laws and quality of life ordinances, but also arrest, detention, conviction, sentencing, and experiences on probation and parole.

Anti-homeless laws are the latest iteration of regulation to expel, punish, and otherwise discourage the presence of those deemed undesirable. Jim Crow laws segregated the South after the Civil War, while Sundown Towns forced Black people to leave town before the sun set. The anti-Okie law of 1930s California forbade poor Dustbowl immigrants from entering the state. Ugly Laws (first invented in San Francisco in 1867 and on the books in Chicago until the 1970s) criminalized people for allowing disabilities to be seen in public.⁹

Throughout the 19th and 20th centuries, there also existed various “vagrancy ordinances” that were key to controlling both the “wandering poor” and freed or escaped slaves. A number of Federal court cases have shaped the development of modern-day anti-homeless laws, but most prominent is the 1972 US Supreme Court Case *Papachristou v. City of Jacksonville* which held a vagrancy ordinance unconstitutionally vague: it failed to give a person of ordinary intelligence fair notice that “vagrancy” was forbidden and “encouraged arbitrary and erratic arrests and convictions.” The Court also worried that law enforcement officials could use the law against undesired groups as a “convenient tool for ‘harsh and discriminatory enforcement.’”¹⁰

Today’s anti-homeless laws are mainly inventions of the 1980s, as a crisis response to the unprecedented explosion of homelessness caused by the drastic reduction in affordable housing in the Federal budget.¹¹ Since then, these laws have become increasingly widespread, and continue to proliferate at unprecedented rates across the US, growing most rapidly in the past five years.

More narrowly tailored than the earlier vagrancy ordinances, today’s anti-homeless laws are aimed at particular behaviors (sleeping, sitting, begging) in particular places (near ATMs, on sidewalks, in parks), at particular times (7 a.m.–9 p.m., 9 p.m.–7 a.m.), to avoid the constitutional limits imposed on broad vagrancy laws. Rather than simply having one “vagrancy ordinance,” cities now pass dozens of laws, which in their totality, effectively re-instate the unconstitutional vagrancy laws they have come to replace. San Francisco has more anti-homeless ordinances than any other city in the state of California. With 23 state and municipal anti-homeless laws on its books, the city far surpasses the state average of nine per city.¹²

9 For a legal genealogy comparing the legislative language and enforcement of vagrancy; anti-Okie, Jim Crow, Ugly, and Sundown Town Laws see Mathew Javier Ortiz and Sara Rankin, *The Wrong Side of History: A Comparison of Modern and Historical Criminalization Laws*. (Seattle University School of Law, 2015).

10 *Papachristou v. City of Jacksonville*, 405 U.S. 156, 171. 1972.

11 Western Regional Advocacy Project, *Without Housing*, (2010).

12 UC Berkeley Law School Policy Advocacy Clinic, *supra* note 5.

“Quality of Life” Laws

Anti-homeless laws are part and parcel of a wider set of ordinances and criminal justice paradigm both commonly and officially referred to as “quality of life” ordinances or “civility laws.” These laws refer to activities frequently considered nuisances, and are mainly intended to regulate “disorder” in public spaces. This set of regulations includes the various anti-homeless laws prohibiting sitting, sleeping, and eating, but also restrictions on drinking in public, dogs not leashed, climbing trees, smoking in parks, littering, or unlicensed vending among others. While the courts, San Francisco Police Department, Human Services Agency, and other departments in San Francisco have varying classifications of what constitutes a “quality of life violation,” by any definition there are dozens of such laws.

Because “quality of life” laws mainly prohibit activities that would be non-criminal were they to occur on private property or within one’s home, those experiencing homelessness are disproportionately impacted and withstand discrimination in enforcement. This report refers to the term in quotes throughout, because it is an offensive misnomer that refers to the “quality of life” of one group at the detriment to the quality of life of others—namely poor people, people of color, and homeless people who are disproportionately impacted by these laws. This distinction is made explicitly clear by the San Francisco Police Department itself, whose primary webpage dedicated to homelessness is entitled “Quality of Life / Homelessness: Interacting with the Homeless Community.”¹³

Initially, “quality of life” was a popular term of urban policy to reference the needs of the poor.¹⁴ The newly founded Federal Department of Housing Preservation and Development (HUD) entitled the guide to its first major initiative, the Demonstration Cities and Metropolitan Act of 1966, “Improving the Quality of Urban Life.” Lyndon B. Johnson frequently used the term in promoting his War on Poverty. It was only after a backlash against liberal programs, and co-opting of the term by middle class neighborhood councils, that “quality of life” came to be associated with policing rather than welfare, and refer to middle and upper classes rather than the poor.

The political and policing concept of “quality of life” as we now know it, first emerged in New York City in 1981 when Mayor Koch outlined “quality of life” Enforcement in his annual mayoral report as efforts to keep streets clean, reduce canine waste, and increased enforcement against street drug dealers. However, it wasn’t until the early 1990s that “quality of life” laws and their zero-tolerance policing came fully into fruition as a common political and policing strategy calling for the aggressive enforcement of minor crimes in Mayor Giuliani and police chief William Bratton’s New York. It rapidly spread across the entire country, and was famously imported to San Francisco by Mayor, and former police chief, Frank Jordan.

From a policing perspective, the idea is that if a neighborhood is able to enforce behavior standards against minor disorders, more serious problems will be unlikely to develop.¹⁵ Quality of life policing was also promoted through claims that catching offenders jumping turnstiles or jaywalking would more quickly expose those with warrants and that by picking up low-level drug-dealers you may also be taking off the streets a potential violent offender.¹⁶ Social scientists have largely discredited the effectiveness of the policing strategy,¹⁷ but from a political perspective, “quality of life” campaigns remain hugely successful in attracting voters, businesses, and donors with the promises of a “higher quality of life, a cleaner city, a better city, that draws more business and has more jobs.”¹⁸ The emphasis is always on the fate of both middle-class neighborhoods and business, while homeless people are to be swept up for the benefit of the rest of the city.

13 San Francisco Police Department Website: <http://sf-police.org/index.aspx?page=4441>.

14 For a historical overview of the term and effects of “quality of life” see the book by former SF Coalition Civil Rights Organizer, now CUNY Professor Alex Vitale. *City of Disorder: How the Quality of Life Campaign Transformed New York Politics*. (NYU Press, 2008).

15 George L. Wilson and James Q. Kelling. “Broken Windows.” *The Atlantic*, March. 1982.

16 Pervaiz Shallwani. “NYPD Commissioner William Bratton Defends ‘Broken Windows’ Policing.” *Wall Street Journal* (sec. US), May 1, 2015.

17 Gary Blasi and Forrest Stuart, “Has the Safer Cities Initiative in Skid Row Reduced Serious Crime?” (September 15, 2008).

18 For a review of research on the outcomes of “quality of life” and “broken windows” policing see Loic Wacquant, *Punishing the Poor* (Duke University Press: 2009) Pp. 266-269.

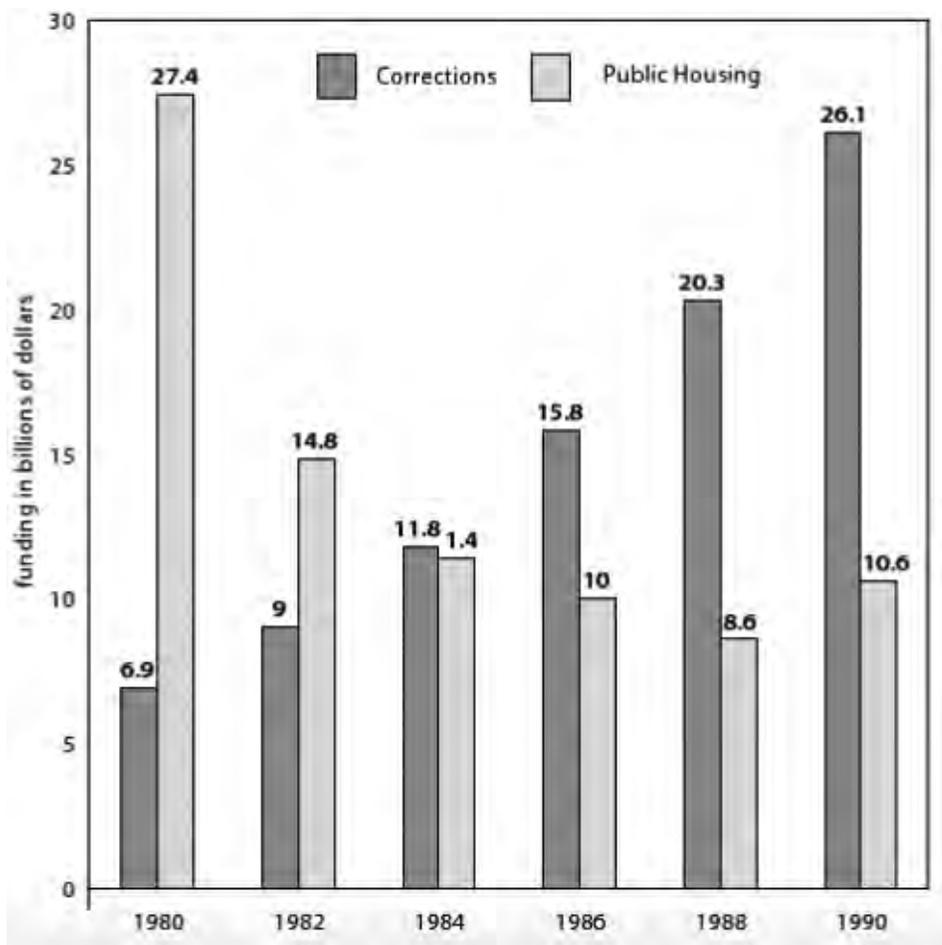
Mass Incarceration of the Extremely Poor

In the past forty years the United States confined population has increased 500% from 380,000 to over 2.2 million people.¹⁹ Considering those on parole and probation, the population under criminal justice supervisions reaches 6.9 million.²⁰ Paralleling the dismantlement of publicly funded housing and the rise of modern homelessness, America has gradually replaced the social safety net with a penal state that criminalizes and incarcerates the poor and people of color.

Whatever offenses they may have committed, the trajectory of those incarcerated cannot be mapped out and explained without considering social class.²¹ Two-thirds of people in U.S. jails had an income of less than \$12,000 the year prior to arrest.²² The arrest, detention, conviction, and sentencing of a person are all better explained by class position than a seriousness of crimes, and those experiencing homelessness are disadvantage at each step in the system. Homeless people are more prone to arrest, not only because of the special anti-homeless and quality-of-life provisions designed to entangle them, but also because they tend to reside in poor neighborhoods that

experience higher levels of policing, are caught on drug offenses that the housed so easily avoid, and are frequently approached and searched due to complaints against their very presence.²³

Once detained, they cannot afford even the lowest level of bail and are therefore held for weeks or months at the city's expense. In San Francisco 85% of the roughly 1,300 inmates have not been convicted of anything, and are there because they simply cannot afford bail—a large portion unable to afford the lowest \$500 bail.²⁴ The promise of escaping jail quickly leads many to accept a conviction, while those who go to trial cannot afford a private attorney. Not only is a homeless person's conviction in trial more likely, due to their inability to attain legal resources, their sentencing may also be harsher due to their previous record of "quality-of-life" offenses or the disproportionate sentencing associated with poor people's



Source: Committee on Ways and Means, *Green Book 1996*; Kathleen Maguire and Ann L. Pastore (dir.), *Sourcebook of Criminal Justice Statistics 1996*.

19 US Bureau of Justice Statistics, [Correctional Populations in the United States, 2013](#). NCJ 248479 (December 2014).

20 *Id.*

21 John Hagan. "The Poverty of a Classless Criminology," *Criminology* 20, no. 1: 1-19 (1992).

22 Michelle Alexander *The New Jim Crow* (The New Press: 2010).

23 National Healthcare for the Homeless Council, "Incarceration and Homelessness: A Revolving Door of Risk." In *In Focus: A Quarterly Research Review of the National HCH Council*: Vol. 2, Issue 2. (Nov. 2013).

24 Jeff Adachi and Naneen Karrakar, "[The Waste, Inequity of Filling Jails with Those Who Can't Make Bail.](#)" *San Francisco Chronicle*. October 23, 2014.

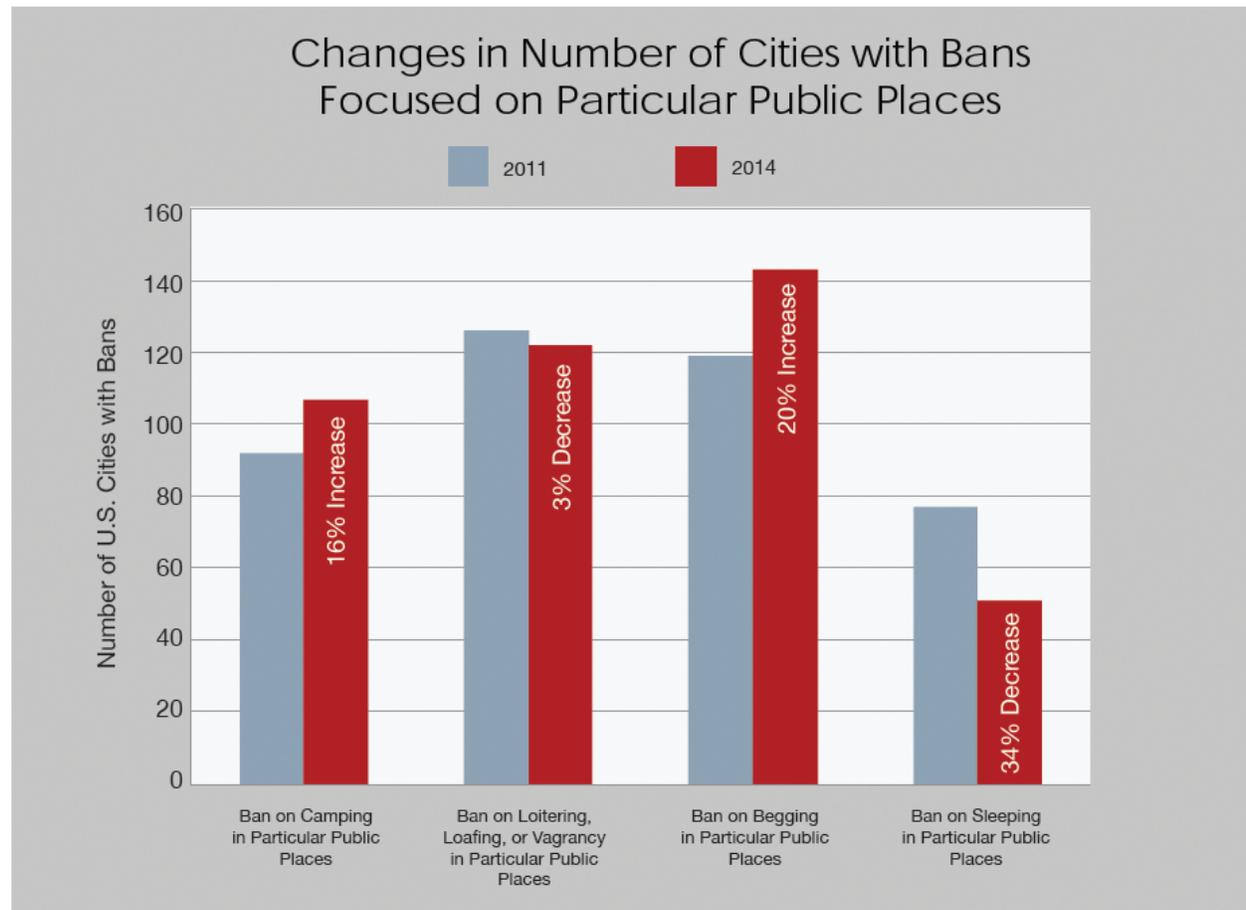
behaviors and drugs of choice versus those of their wealthier counterparts. If a homeless person avoids incarceration and is placed on probation, the restrictions on curfew, of avoiding to particular parts of town, and dis-associating with other parolees and former felons is made virtually impossible by their homeless status.

Those experiencing homelessness are disproportionately affected by the war on drugs, tougher sentencing laws, and zero-tolerance policing and are disadvantaged in every step of the penal system, from arrest to sentencing to probation. At the same time, the criminal justice system produces homelessness through detaining poor people who are housed prior to arrest and in the course of a few months or years graduates them into homelessness with a certified criminal record and no viable housing option upon release.

The State of the Criminalization of Homelessness in the US and California

In 2012 the US Interagency Council on Homelessness and the US Department of Justice agreed that local measures to criminalize “acts of living” in public spaces “further marginalize men and women who are experiencing homelessness, fuel inflammatory attitudes, and may even unduly restrict constitutionally protected liberties.”²⁵ In 2014, the UN Human Rights Committee found such criminalization in possible violation of the International Covenant on Civil and Political Rights, amounting to “discrimination and cruel, inhuman, or degrading treatments” and recommended the “abolition of the criminalization of homelessness laws and policies at state and local levels.”²⁶ Yet despite these statements from international and federal authorities, local and state governments have passed more anti-homeless laws between 2011-2014 than any period of US history.²⁷

25 United States Interagency Council on Homelessness, *supra* note 3.

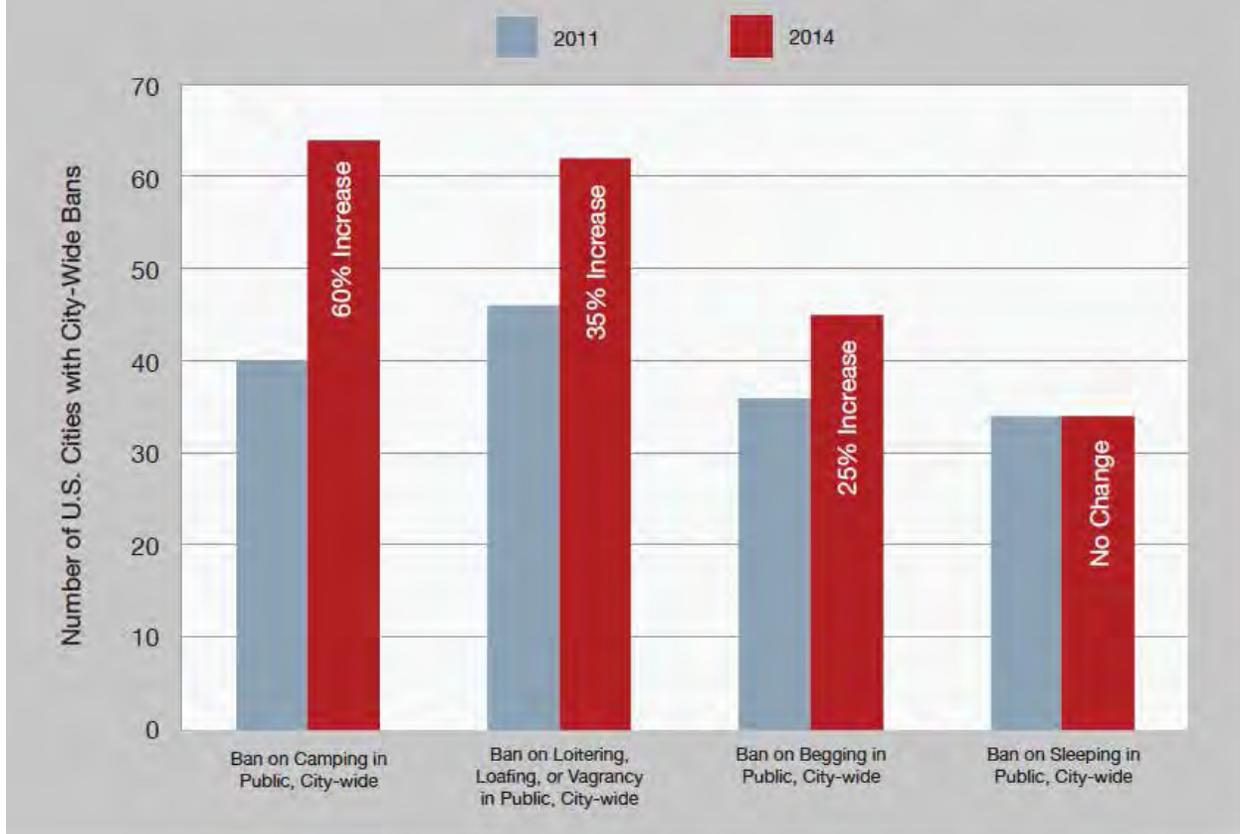


Source: National Law Center on Homelessness and Policy. *No Safe Place*. 2014. pp. 17-18

26 United Nations Human Rights Committee. [“Concluding Observations.”](#) Fourth report of the United States of America (2014).

27 National Law Center on Homelessness and Policy, *No Safe Place* (2014); UC Berkeley Law School Policy Advocacy Clinic, *supra*

Trends Show Overall Increase in City-Wide Bans



Source: National Law Center on Homelessness and Policy. *No Safe Place*. 2014. pp. 17-18

A recent study of 187 cities found anti-homeless laws to be widespread, increasing, and intensifying.²⁸ From the charts on pages 9 and 10, one sees that the majority of US cities have bans on camping, loitering, and begging in particular public places, while city-wide bans have been increasing at an alarming clip since 2011. For instance, in 2011, 70 cities banned sitting or lying down in particular public places and in 2014, 100 cities were found to ban these activities. This is a 43% increase in just three years. The ban on sleeping in vehicles increased even more from 37 cities in 2011 to 81 cities in 2014. While hardly any cities had restrictions on individuals and private organizations sharing food with homeless people during the 2011 survey, by 2014, 17 of the cities in the survey had such bans (10% of all cities). The one exception to this trend is the decline of bans on sleeping in particular places. However this decline is likely attributable to the dramatic increase in anti-camping laws, which given their broad definitions capture much of the same conduct—for instance the use of a backpack as a pillow has been used to cite and arrest those for camping.²⁹

California, a state that comprises only 12% of the US population, but 22% of the nation's homeless people, is a leader in this trend of criminalizing homeless people.³⁰ A recent report by UC Berkeley School of Law found 500 laws in 58 cities restricting and criminalizing sleeping, standing, sitting, and begging.³¹ Comparing this survey of California cities to the cities sampled by the NLCHP report revealed that California is an extreme outlier in its

note 2.

28 UC Berkeley Law School Policy Advocacy Clinic, *supra* note 5.

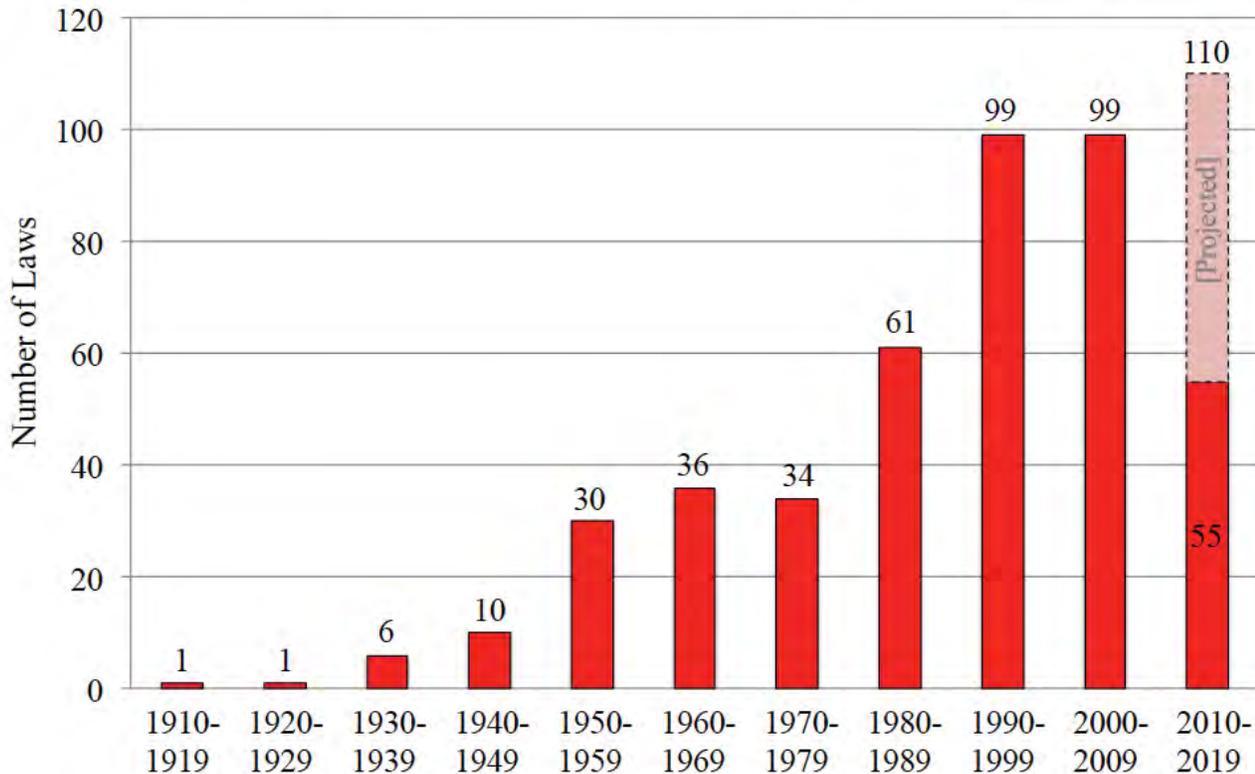
29 *Id.* at 18.

30 Culhane et. al. *The 2013 Annual Homelessness Assessment Report (AHAR) to Congress*. (United States Department of Housing and Urban Development, 2013)

31 UC Berkeley Law School Policy Advocacy Clinic, *supra* note 5.

widespread criminalization of homelessness by US standards. California cities were found to be 25% more likely to have laws against sitting/lying, 20% more likely to have citywide sleeping bans, and 50% more likely to ban the sharing of food with homeless people. Most significantly is the criminalization of camping and sleeping in vehicles. Whereas, only 33% of US cities restrict sleeping in vehicles, 74% of California cities carry such a ban, and while only 30% of cities have camping bans citywide 69% of California cities do. Like the rest of the nation, most of these laws have been passed recently. 60% of the 500 laws have been passed since 1990, and 55 new anti-homeless laws have been enacted since 2010.

Distribution of Anti-Homeless Laws by Year of Enactment, 1910-Present



Source: *California's New Vagrancy Laws*. UC Berkeley Law School Policy Advocacy Clinic. 2015.

A Brief History of San Francisco's Criminalization of Homelessness

How does San Francisco rank in this index of anti-homeless laws? In California, and perhaps the nation, San Francisco has more anti-homeless laws than any other city. With 23 laws prohibiting sitting, sleeping, standing, and begging San Francisco has 9 more laws than the average California city.³² While, this does not necessarily mean that San Francisco enforces these laws as aggressively compared to other municipalities, it clearly indicates the degree to which legislators invest political capital into anti-homeless campaigns, the amount of time and energy devoted by citizens groups to support such measures, and the associated media coverage that follows such campaigns, which not only tend to fuel the fires of hateful anti-homeless sentiments, but distract resources, energy, and attention away from real solutions to creating “safe and clean” public spaces, and more importantly ending homelessness. Furthermore, as our report uncovers, it is precisely these laws, mainly through public complaint, that incite police and courts to label, ticket, and arrest the city’s poor who are forced to live in public as criminals—a job that many in the police and court system think is inappropriate and a waste of resources.

³² *Id.* p. 17.

35 Years of a Failed Policy of Criminalization

Diane Feinstein (1978–1988)

- Sleeping in parks between 8 pm-8 am by city ordinance 1981.
- Habitation in vehicles banned by city ordinance, 1984.

Art Agnos (1988–1992)

- Sweeps in Golden Gate Park, Civic Center, and Cole Valley, 1988.
- Mayor Agnos orders Police Chief Frank Jordan to sweep Civic Center Plaza of the 60–100 people living there, 1989.

Frank Jordan (1992–1996)

- Aggressive Panhandling banned through Prop J (put on the ballot by Jordan). 1992.
- Food Not Bombs arrested dozens of time for feeding homeless people, 1992.
- The Matrix Program begins. More citations for sleeping and camping in the parks, drinking in public, obstructing the sidewalk and sleeping in the doorways are issued in the first month of Matrix than in the five previous years combined. 1993.
- “No parking from 2:00am to 6:00am” signs are put up by the Port Authority on a street in China Basin where most of the city’s mobile residents reside. 1994.
- Mayor Brown plans Matrix II, “Take back our Parks,” a multi-departmental intensive sweep of Golden Gate Park, and uses it as a media moment in his mayoral campaign. Homeless people lose property and are displaced. 1994.

Willie Brown (1996–2004)

- Brown publicly calls for an end to “Matrix,” and goes onto give over 3,000 more citations for “quality of life” offenses in his first year in office than Jordan’s last year in office, 1996.
- Multiple ordinances are passed: ban on drinking in parks where poor people congregate (1998); ban on camping or sleeping in UN and Hallidie Plazas (1998); ban on loitering near public toilets (2001); ban on aggressive panhandling extended to areas around check cashing operations and motor vehicles (2003).
- SFPD forms “Operation Park,” 2-6 officers are designated each shift to roust and cite homeless people in parks, 1996.
- Caltrans creates special unit that sweeps homeless people and property, 1997.
- “No Loitering or Sleeping” signs are placed in parks across the city, 1998.
- Benches are removed from UN Plaza in a midnight operation, costing city \$24,000 in overtime. 2001.
- DA starts prosecuting California Penal Code 647(j), a misdemeanor that makes it illegal to lodge on public or private property. Homeless people begin to spend more time in jail. City spends \$30.8 million to incarcerate homeless people. 2001.
- DPW starts “Operation Scrubdown” targeting downtown streets and alleys. Workers move encampments, and then hose them down with nasty chemicals making it impossible to return to that spot. DPW estimates that the operation cost the city \$11,000 every day. 2002.

Gavin Newsom (2004–2011)

- City moves from its #11 ranking in the National Law Center on Homelessness and Poverty to #6, between 2005 and 2009, out of 224 cities in the US. The study uses an index of anti-homeless laws and the severity of

penalties.

- City begins requiring police to charge cases which could be either infractions or misdemeanors as misdemeanors.
- Park code amended to increase the number of hours per day in which it is illegal to sleep in parks by 50%.
- Major sweeps conducted in Golden Gate Park, Union Square, and SoMA.
- Rather than investing in more social services, city opens a costly court program, whose defendants are a majority homeless, to require homeless to participate in services or be punished.
- Sit/Lie Ordinance calling for 6 months in jail on second offense is enacted through voter passed proposition and championed by Newsom.

Ed Lee (2011–Today)

- 317 homeless people found in San Francisco’s jail in the Point in Time Count. This amounted to roughly 25% of the entire jail population and represented 5% of the homeless people counted that night. (2011)
- SF Parks and Rec hire 10 new rangers leading to a six-fold increase in citations for sleeping in camping over the next three years.
- Supervisors pass a park closure ordinance, making it illegal for those with out shelters to sleep from 12am—5pm.
- Citations for anti-homeless and “quality of life” violations triples between 2011-2013.
- BART begins displacing, citing, and arresting homeless people resting inside stations.

The information from 1988 to 2001 is drawn from the brief by the San Francisco Coalition on Homelessness, “15 Years of Failed Policy: ‘Quality of Life’ Enforcement in San Francisco.” (2003). For an expanded version of this document see Appendix 2.

San Francisco was not always so mean to those experiencing homelessness, but since the late 1980s the criminalization of homelessness has become a policy norm and consistently increased unabated across mayoral administrations. The historical record covered in this report is not intended to discount whatever advances in service provision each of these mayoral administrations advanced—each of the mayors have documented and promoted this legacy already—but to highlight the underside of creeping criminalization that receives far less media and political attention. As you read this historical policy record of the criminalization of homelessness ask yourself: If these so-called “quality of life” laws are so effective at reducing homelessness, don’t you think San Francisco would see some tangible results after 35 years?

The pattern of criminalization reveals a number of historical trends. First, while the penal crackdowns on homelessness in terms of arrest and citations ebb and flow depending on the political climate, shifting agency priorities, and election seasons, *the restrictions on public spaces and the criminalization of life-sustaining activities homeless people have no choice but to perform in public have constantly increased over the past 35 years.*

Second, *new policies and practices of criminalization are almost always packaged with new provisions or reforms of welfare assistance for homeless people.* Ed Lee opens the navigation center for campers while citation enforcement for camping under his administration triples.³³ Angel investor Ron Conway donates \$35,000 and becomes the largest donor of “Coalition for Civil Sidewalks,” the main group pushing Newsom’s Sit/Lie Ordinance, while investing thousands of dollars into Project Homeless Connect, where he served as president, and whose mission is “to connect San Franciscans experiencing homelessness with the care they need to move forward.”³⁴ Mayor Newsom was recognized nationwide as a pioneer in expanding a “housing first” approach to homelessness, while cheer leading the passage of a sit/lie ordinance—a feat Frank Jordan himself failed to accomplish at the height of the 1990s Matrix Program. In addition, Newsom championed a 2003 “aggressive panhandling” ban, loosely defined and passed by voters that promised substance abuse treatment for offenders, but did not provide necessary funding to do so. The launching of outreach teams, “multi-service” centers, navigation centers, and new investments in homeless housing often end up serving as distractions and cover for continued or ramped up enforcement, which if successful, allows politicians to claim success for a new service program rather than the police who actually “cleared” the streets of the poor. In other cases, new programs or services end up serving as justification for further criminalization, projecting the falsehood that since there are now new services, of which there are never enough, the city should use a punitive stick to encourage the “service resistant” to take advantage of its carrots.

Third, is the fact that *across all of the mayoral administrations of the past thirty-five years there has never once been a concerted effort to “decriminalize” homelessness, roll-back enforcement, or approach “quality of life” laws from a civil rights or human rights perspective* as suggested by the Department of Justice and Interagency Council on Homelessness. While there has been rhetoric and small steps to curtail criminalization during each administration, these are always momentary breaks within a broader appointed term, as the record here clearly indicates.

In sum, over the past thirty-five years the Federal and State of California Government has moved out of the business of social services and housing provision for its poorest residents and increasingly into the business of incarcer-

3 Lessons from San Francisco’s History of Punishing the Poorest

1. Restrictions on public spaces and life-sustaining activities homeless people have little choice but to perform in public have constantly increased over the past 35 years.
2. New policies and practices of criminalization are almost always packaged with new provisions or reforms of assistance for homeless people.
3. Over the the past thirty-five years there has never once been a concerted effort across a mayoral term to “decriminalize” homelessness, rollback enforcement, or approach “quality of life” laws from a civil rights or human rights perspective.

³³ HSA, *supra* note 7.

³⁴ Sam Soneja, “High-tech financiers, not Haight Street merchants are bankrolling Prop. L.” *Bay Citizen*, April 11, 2010. ; For the mission of Project Homeless Connect see: <http://www.projecthomelessconnect.org/about/>.

ating and policing them.³⁵ Rather than mitigating these effects, the city government of San Francisco has exacerbated this rising tide of state-sponsored poverty by promoting economic and housing policies that have lubricated the rapid rise of rents, construction of luxury housing, reduction of affordable housing, and eviction of thousands of poor residents. To manage the social fallout from these decisions, San Francisco has consistently increased its spending on homeless housing and services. Yet this meager growth of a new welfare arm has proven wholly inadequate to address the homelessness that the city, state, and federal government's broader housing, health and economic policies create. So the city has also followed, and at various times led, the national trend of criminalizing homelessness. Sometimes out of moral panic, other times for political gains and posturing, sometimes NIMBY (not in my backyard) sentiments among local neighborhood groups, and almost always backed by Business Improvement Districts and Merchant and Business Associations.

Under the current mayoral administration of Edwin Lee, we see the exact same approach as his predecessors: park closures, a large vehicle ban, an expensive upsurge in citing destitute people for sleeping, camping, and sitting in public spaces, and proposals for a costly new jail and hundreds of more police officers—all of this in just the last four years. As our study reveals, these policies not only violate the civil and human rights of homeless people, they also undercut the investments made in San Francisco's social service system and contradict the city's purported goal of reducing homelessness. In doing so they injure and insult our city's most vulnerable citizens.

Outline and Scope of the Study

To better understand the impact of the enforcement of anti-homeless laws, the San Francisco Coalition on Homelessness surveyed 351 currently and recently homeless individuals about their interactions with police officers and experiences with citation, arrest, incarceration, and re-entry. The report also draws on 43 in-depth interviews completed by homeless and formerly homeless peer researchers, supervised by sociologists. The study builds on the growing research on the history, growth, costs, and impacts of anti-homeless laws in offering an in-depth case study of San Francisco. Unlike the careful bookkeeping of expenditures on homeless services, the city government collects little and haphazard data on the frequency, impact, and workings of the criminal justice system's handling of homelessness, let alone the costs in time and dollars spent on police, court, and jail resources in response to homelessness.³⁶ While many San Franciscans are well educated on the pioneering homeless services that the city promotes, the public and many administrators seem both unaware and unconcerned in considering the impacts and costs of the criminal justice system on its poorest.

This report analyzes and animates the impact of criminalization through community based surveying and interviewing with scrutiny of city records and policy documents. Guided by doctoral researchers at the University of California Center for Human Rights and driven by the questions, labor, and efforts of the Coalition on Homelessness' Human Rights Workgroup, this study reflects a 9-month effort of data collection, analysis, debate and discussion.

The report outlines the ways in which criminalization fails as a response to homelessness. It sketches a vicious circle of dispossession—from interactions with law enforcement on the street, to the entanglements of citations and the courts, to the process of arrest, incarceration, and release, all too often into homelessness. After explaining our survey methodology in Section 1, Section 2 examines the frequency, types, and impacts of interactions between homeless people and police officers. The section exposes the high frequency of displacement from public space and the commonality of search and the seizure of property that accompanies such forced removals. Section 3

³⁵ For an overview of housing cutbacks see Western Regional Advocacy Project. *Without Housing*. 2010. In 1978 HUD's low/moderate-income housing budget was \$77.3 billion, today the budget stands at \$30.9 billion (in 2004 constant dollars) (OMB, 2010). Whereas HUD subsidized 203,046 new public housing units at its peak in 1976, in 1982 this funding was reduced to zero, with only minor increases until 1995 where production turned to destruction. From 1995-2010, 150,000 units were lost to demolition or sale without being replaced and hundreds of thousands of Section 8 units have been lost.

³⁶ The \$165 million a year price tag on homelessness in San Francisco represents only the expenditures on services as requested in July, 2013 by Supervisor Mark Farrell's Budget and Legislative Analyst Request (San Francisco Office of Budget and Legislative Analyst, *supra* note 4). For a further discussion on how SF underestimates its costs of homelessness see the conclusion of this report.

describes the ways massive debts and penalties of unpaid citations incurred by the majority of people experiencing homelessness create further barriers of exiting the streets by relating survey findings with citation data provided from the courts, San Francisco Police Dept., Parks, and Human Service Agency. Section 4 examines the relationship between incarceration and homelessness, looking at both the jail's front-door, at the ways homeless people's vulnerability lead to increased arrest and detainment, and the jail or prison's backdoor through which former prisoners are released into homelessness with few, if any, supports or services. Finally, section 5 examines the disparate impacts of the criminalization of homelessness, highlighting the intersections between race, gender and mental illness to show how the criminalization of homelessness perpetuates broader inequalities. The conclusion summarizes the report's findings and provides a series of general and specific recommendations to end the current system of criminalizing homelessness in San Francisco.

Research Methods

This report analyzes the impact of criminalization on homelessness through community based surveying and interviewing, coupled with the scrutiny of city records and policy documents. Guided by doctoral researchers at the UC Berkeley Law School's Human Rights Center and driven by the questions, labor, and efforts of the Coalition on Homelessness' Human Rights Workgroup, this study reflects a 9-month effort of data collection, analysis, debate and discussion.

This study draws its findings from 1) a city-wide survey of 351 homeless San Franciscans, 2) In-depth interviews with 43 homeless people 3) interviews and email correspondences with agency officials, lawyers, service-providers, police officers, and 4) analysis of city records received through Information Act Requests.

Survey and Sample Methodology

In order to understand the extent and effects of homeless and marginally housed people's interactions with law enforcement, thirty volunteer members of the Coalition on Homelessness (COH) conducted surveys with 351 currently and formerly homeless participants throughout San Francisco from December 1 to December 17, 2014. Surveyors all received training by two doctoral candidates of Sociology from the Human Rights Center at UC Berkeley Law School and UCSD Center for Global Justice to assure greater accuracy and reliability. The short time period of the surveys implementation reduced chances of duplication.

Survey proctors targeted each neighborhood in San Francisco's central city. The teams focused both on areas known to COH staff as public spaces where homeless people spend time and areas around service centers and shelters. This strategy assured a diverse sample that would not bias results toward either those closely tied to service systems or those who were disconnected from service institutions. Each survey proctor was assigned a specific location from a list of public parks, plazas, and service centers. The strategy of assigning specific locations, times, and dates to administer the survey minimized the risk of duplication. Two survey proctors were assigned to service centers for transgender people, who are under-represented in most studies of homelessness. Each survey proctor was instructed to survey people who *appeared* to be poor or homeless and who were spending time in the proctor's assigned location on their assigned day. People were allowed to participate in the survey if they were currently homeless, or if they had been homeless at any point in the past year. Surveys were collected in the Tenderloin (26%), Civic Center (32%); Mission (11%); Haight (9%); Downtown/SOMA (16%); Potrero Hill (2%); Castro (1%) and the Bayview (4%). Survey respondents received a pair of socks or a piece of candy to thank them for their participation.

All surveys were anonymous and participants were instructed that they could skip or refuse to answer any question. Because it is impossible to conduct a truly random sample of a hidden population, we employed a purposive sampling method using population estimates from San Francisco's most recent Point-in-Time count as guide to ensure that we represented various demographic groups of single homeless adults in San Francisco's central city. As one can see at the end of this section, where we compare our samples demographic to the demographics of those found in the two most recent point in time counts, our sample is demographically similar to the point-in-time count by almost every single measure. Most people who experience homelessness regain their housing within a year. While we did not ask our participants how long they had been homeless, the strategy of recruiting people who appeared to be homeless from high traffic areas might have resulted in a disproportionate number of chronically homeless participants. However, by leaving participation open to those who had been homeless in the past year, we compensated for this common bias in surveys of homeless people and included a number of precariously housed people who had been homeless for short periods of time. Of our 351 survey respondents, 22 were currently living in a privately rented apartment, 29 were residing at a friend or family member's, and 68 were currently staying at a residential hotel, known in SF municipal code as Single Room Occupancy Hotels (SRO)—amounting to 33% of the total sample. We also included those who had been living in SROs for the entire year as part of our

sample because they spend a great deal of time outdoors and are affected by the policing of poor people in public space. As our results show, while marginally housed participants experience frequent police interactions since they must spend much of their time in public space, they nonetheless have less contact with police than those who sleep outdoors. The inclusion of currently housed residents who had experienced homelessness in the past year in our sample means that the frequencies and percentages reported here would actually be far higher if we had surveyed only people staying outdoors.

Survey data were analyzed using the quantitative data analysis program Qualtrics. Although this is not a random or representative sample, it is likely that the experiences of our survey participants are common among homeless San Franciscans. By analyzing the relationships between homelessness and law enforcement interactions for the participants in this study, we are able to draw conclusions about the ways in which local and state policies perpetuate poverty among our participants, and to make policy recommendations based on these findings.



Interviews

In order to gather in-depth accounts of how law enforcement interactions affected a diverse group of homeless San Franciscans, five peer researchers conducted video-recorded (and in five cases only audio-recorded) oral history interviews with an additional sample of 43 currently homeless participants. Interviews explored participants' histories of homelessness and experiences with law enforcement, including experiences with displacement from public space, police searches, citations, and arrest and incarceration. Questions focused on the effects of the criminalization of homelessness and the relationship between homelessness and incarceration. Interviews were not anonymous, but participants could choose to use pseudonyms. Informed consent practices drew from the best practices of the Oral History Association of America³⁷ and the COH's own consent process for video-recording.

A team of five currently and recently homeless peer researchers conducted all of the interviews. Peer researchers received training in interview methods from sociologists affiliated with the UC Berkeley Center for Human Rights and UCSD Center for Global Justice. In addition to completing 8 hours of formal methodological training, each peer researcher received on-going data collection support. One goal of this project was to empower homeless people to create and disseminate knowledge as experts in the homelessness poli-

³⁷ Available at <http://www.oralhistory.org/about/principles-and-practices/>

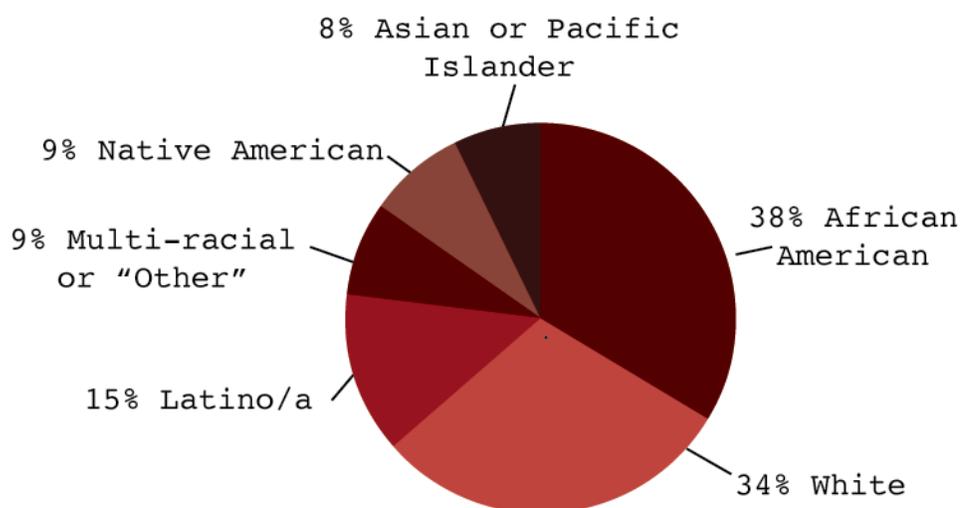
cy field. Peer researchers learned how to approach interview interactions in a neutral and non-judgmental way. At the end of each interview, peer researchers reflected with interview participants about how participants' experiences could inform the COH's campaigns and policy recommendations.

Peer researchers recruited interview participants from their own communities, with a focus on race and gender diversity within the interview sample. People could participate in interviews if they were currently homeless or housed in SRO hotels and had interacted with law enforcement in San Francisco. Peer researchers administered pre-interview surveys to each participant and chose the most relevant interview questions from the interview guide. Most interviews lasted between 40 minutes and one hour, and interview participants received a \$20 Safeway gift card.

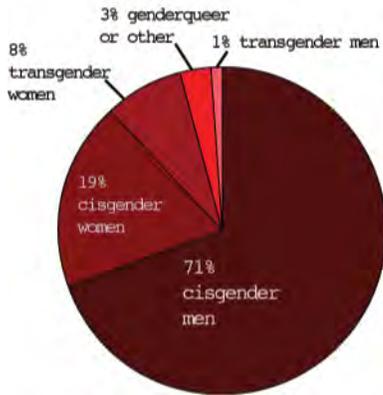
Qualitative data analysis was an on-going process, with weekly research team meetings to discuss data collection and analysis. During the month of May, the lead members of the Peer Research Team transcribed the interviews and coded the data according to broad themes that emerged from prior analysis of survey data. Working with sociologists, peer researchers and the Human Rights Work Group analyzed recurring themes in the interview data, and selected personal accounts to be presented in this report. Collaborative data analysis gave homeless communities control over portrayals of their lives and experiences. Likewise the recommendations of this report are not those of the academic authors or research associates, but rather those of the Human Rights Workgroup in reflection of the empirical findings presented here.

Demographic characteristics of survey participants

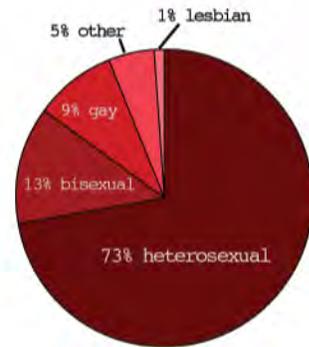
Note: All of our demographic categories allowed participants to identify with any or as many categories of race, gender, and sexuality as they wished. The percentages in the graphs represent the percentage of the total sample that identified with one particular category, while the visual pie-graph represents the proportions from the totality of responses. Therefore the percentages in many cases do not sum up to 100%, because they are not exclusive categories by design. More on the following page.



Gender Identity



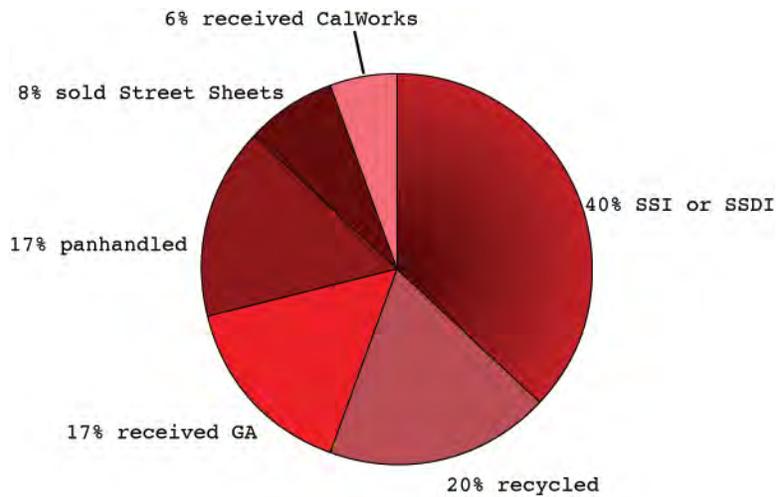
Sexual Orientation



60% self-identified as disabled



(This includes both *physical* and *mental* disabilities.)



Comparison to San Francisco's 2011–2013 Homeless Surveys

Our demographic sample results fell in close range of the City's own estimates based on annual point in time surveys. In 2013 San Francisco's point-in-time survey included 952 respondents, and in 2011 1,024 respondents. Because the demographics of the city's homeless fluctuate, and because these surveys, like our own, can never accurately represent the homeless population, we felt a range would be more appropriate than using the most recent count, which by now is two years out of date. Our own sample falls within the range of demographics found in the city survey in nearly every parameter.

We made an additional effort to include transgender and gender non-conforming people, who are disproportionately likely to experience homelessness according to other national and local studies¹ and whose experiences may be under-represented in the point-in-time count and other general surveys. In order to avoid under-counting gender non-conforming people, we provided respondents with a range of gender options and instructed them that they could choose all that apply.² While some sub-groups of our sample are numerically small, it is crucial to analyze and present data from smaller sub-groups in order to discuss the particular ways these groups of respondents interact with the criminal justice system.

Race

	Sample	PIT 2013	PIT 2011
African American	38%	24%	39%
White	34%	29%	35%
Latino/a	15%	26%	12%
Multi-Racial or Other	18%	16%	7%
Asian or Pacific Islander	8%	5%	5%

Gender

Men	71%	69%	68%
Women	19%	27%	29%
Transgender	9%	3%	3%
Gender Queer or Other	3%	N/A	N/A

Sexual Orientation

Heterosexual	73%	71%	N/A
Bisexual	13%	16%	N/A
Gay/Lesbian	10%	11%	N/A

(Question not asked on 2011 survey.)

¹ Transgender Law Center. [“The State of Transgender California: Results from the 2008 Transgender Economic Health Survey.”](#) 2008.

Jamie M. Grant, Lisa A. Mottet, & Justin Tanis. [“Injustice at Every Turn: A Report of the National Transgender Discrimination Survey”](#) National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011.

² This strategy is consistent with the best practices for enumerating trans people identified by the University of California San Francisco Center of Excellence on Transgender Health. This research center stresses the importance of providing multiple and overlapping gender options in order to avoid under-counting gender-variant people. See [“Recommendations for Inclusive Data Collection of Trans People in HIV Prevention, Care and Services.”](#)

Disability

Physical Disability	35%	9%	30%
Mental Disability	43%	N/A	N/A
No Disability	40%	N/A	N/A

Continual Policing and Displacement

“I’m a human being. I need a place to stay at night. I need to be able to feel safe at night. I need a place where I can get ready and go outside to meet the world.”

—Miles, age 51

Although the San Francisco Police Department does not track or keep records of its interactions with people experiencing homelessness, the department employs roughly 24 “homeless outreach officers,” whose primary duty is to respond to complaints involving homelessness in each of the city’s districts every day.³⁸ Homeless people also interact with other officers on their beat. To gauge the impact of this constant policing, our survey asked homeless respondents about the frequency and types of experiences they’ve had with law enforcement over the past year. Our research participants told a collective story of frequently being approached by police who would tell them to move, run their names for warrant checks, and search their belongings and persons.

Impacts of Continual Displacement

Homeless people spend a significant part of their time trying to find safe places to rest and police spend a substantial amount of time forcing them to move. In a recent nationwide survey of over 1600 homeless individuals completed by the Western Regional Advocacy Project, 74% of respondents reported that they did not know of a legal safe space where they could sleep at night.³⁹ Where do homeless people move when they are displaced? Does this policing accomplish its goal of ridding the streets of “uncivil activities”? With no private space of their own and limited indoor places that are truly public, most people who are displaced move only a few yards, or relocate to a public place in another neighborhood.

“When you were last forced to move, where did you go?”

Homeless people generally do not move out of public space, because more often than not, there is nowhere else to go. 91% of the respondents who had been displaced reported that the last time they were forced to move they remained in public space. Only 9% moved indoors, and many of these moves were only temporary: most reported moving to drop-in centers or the public library, or riding a city bus. They likely ended up on the street again when drop-in centers or the library closed for the day.

Despite threats, homeless people were most likely to move only temporarily: 64% of those displaced reported that they simply moved down the street, around the corner, or walked around and returned after police had left. 21% of those displaced moved to public space in a different neighborhood. However, there was no unidirectional movement into a single neighborhood, but rather a constant churning between neighborhoods and across police districts. The result is that even as individuals are driven from one neighborhood to another, the overall numbers of homeless people in each district remain relatively constant. As one interviewee explained, “My typical day is, I’m sleepin’ on the streets. Sometimes I get woken up by cops; sometimes by DPW... In the past year I’ve moved pretty far across San Francisco. I moved from the Haight to China Basin to the Ballpark to the Financial District to the TL and also the Wharf... I felt all they do is pick on homeless people because we’re an easy target instead of—I’ll say it—catching real criminals.” The regularity of such interactions described by this person is not an exaggeration. 20% of respondents reported weekly interactions with the police, and for those living on the streets

Key Findings

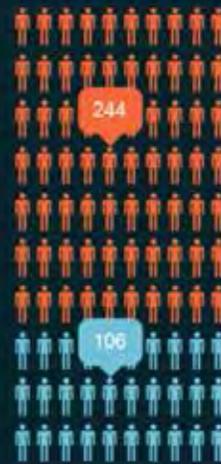
Of survey respondents:

- 74% were approached by police in public space during the last year. 20% were approached four or more times in the past month.
- 70% were forced to move from public space.
- 91% of those forced to move remained in public space after being displaced.
- 56% were searched while homeless

38 Interview with Lt. Nevin, SFPD, Homeless Outreach Coordinator (June 2015).

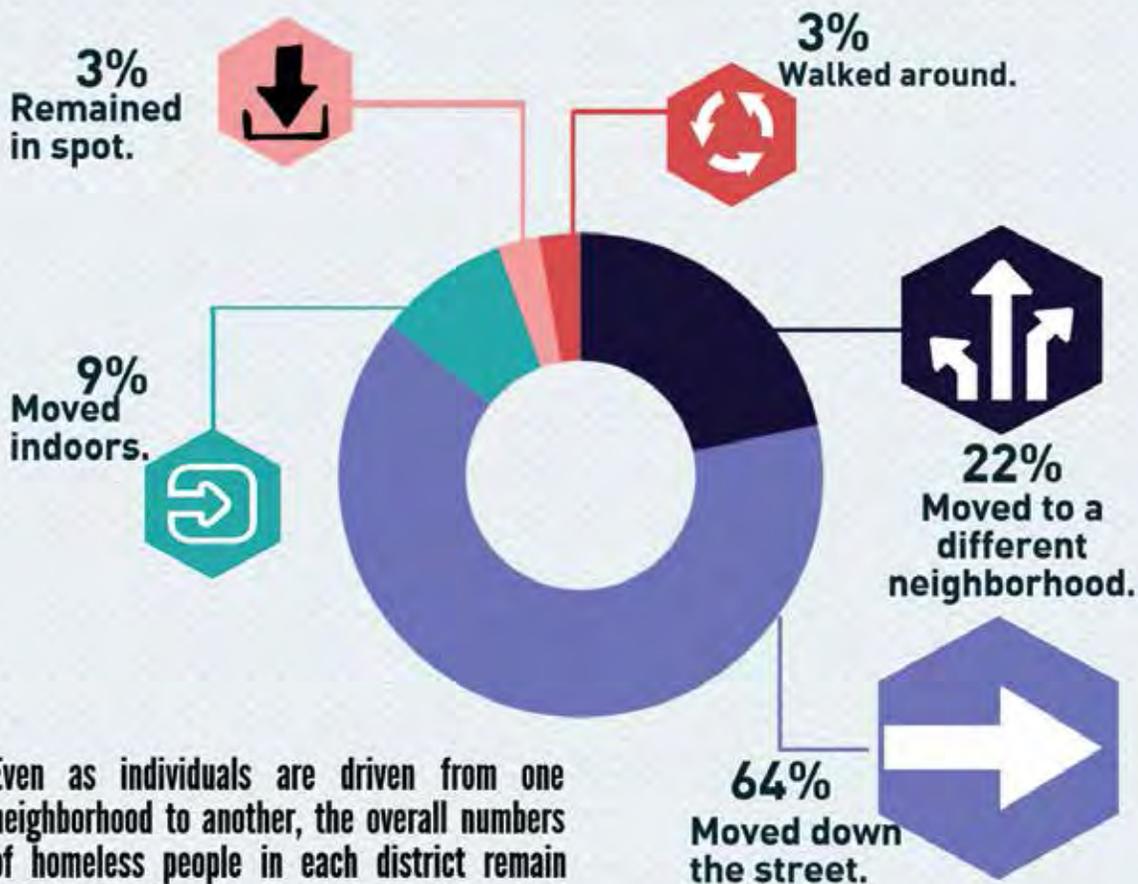
39 Western Regional Advocacy Project, “Civil Rights National Outreach Fact Sheet” (December 2, 2014).

Of 351 participants who experienced homelessness in SF in the past year



70% of respondents were forced to move from a public space.

Where did they go? 91% remained in public space. Many moved down the street, walked around, or went to a different neighborhood.



Even as individuals are driven from one neighborhood to another, the overall numbers of homeless people in each district remain relatively constant.

“The main directive [for police] is to take me to the Tenderloin. It’s a meat grinder. This one officer, he told me I’d get a hot meal and housed. I knew right away he didn’t know what he was talking about. He said he was an ‘Emergency Intervention Specialist.’ In the back of his car, he had the most fancy sniper rifle I’ve ever seen. Good at finding housing for homeless, he was not. He dropped me off at St. Anthony’s.”

—Miles

and parks, 45% of respondents of being approached by officers at least once a month.

Homeless people reported being forced out of public space by a variety of actors, including police, street cleaners of the Department of Public Works (DPW), park rangers, and private security guards. However, the San Francisco Police Department was responsible for the vast majority of displacements, accounting for 204 of the 244 most recent displacements reported by those surveyed. However, it is important to remember that the vast majority of these displacements are driven by complaints by businesses and residents. Because San Francisco’s politicians and voters have passed so many anti-homeless ordinances, the SFPD is charged with responding to these complaints. However, due to a lack of shelters, drop-in centers, and housing, there is little an officer can offer, except a ticket and threat of arrest.

While police captains claim that their officers are conducting “wellness checks” to connect homeless people with needed services, and official SFPD protocol requires officers to provide a handout on service options⁴⁰, survey results show that only 11% of police interactions result in referral to services. Of these 204 most recent cases, police offered services to only 24 respondents. No one was offered housing or medical services. Three people reported that police gave them food, and ten reported that police referred them to shelter. Others were simply offered informational pamphlets or referrals to detoxification centers. And when these referrals or “services” are given, they reinforce punitive practices: items like a sandwich, pamphlet, or bus ticket are often accompanied by warnings that if the person does not leave the area, s/he will be cited or arrested. For these individuals, frequent police interactions result in searches, confiscation of needed belongings, citation and even arrest.

Services Offered

Not only does the policy of displacement fail to accomplish its intended goals of decreasing the so-called “uncivil activities,” such as resting in public places, it also exacerbates the health and safety risks faced by homeless individuals. Our survey found that 31% of participants felt less safe in their new location, while only 9% felt safer. Gender non-conforming participants who were forced to move often felt unsafe in a new location: 59% of gender non-conforming participants felt less safe when they were forced to move. Safety risks for those who moved elsewhere were often considerable. One of our 43 interview participants told us that she was raped while sleeping outdoors, after police forced her to move away from a location where she felt safer.

Many respondents were forced to move while trying to rest or sleep. Sleeplessness has been linked to adverse physical and mental health outcomes, including impaired cognitive function, heart disease, diabetes and depression. Sleep deprivation is especially problematic for a population that already has a higher-than-average likelihood of experiencing mental illness.⁴¹

Camp Evictions

Discussed at greater length in the following section on citations, San Francisco Parks and Rec have increased their citations for those sleeping and camping in the parks 6-fold since 2011.⁴² However, only 4 of our 352 respon-

⁴⁰ San Francisco Police Department “Quality of Life Code Enforcement Reference Card” and “Homeless Resources” Bulletin 481, rev. 07/29/11.

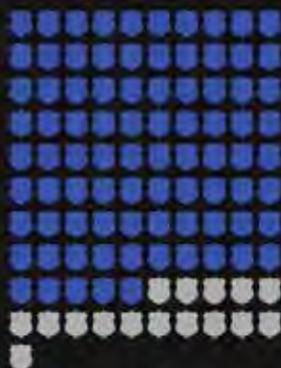
⁴¹ Torrey E. Fuller, “250,000 Mentally Ill Homeless: The number is increasing.” *Mental Health Policy* (2011).

⁴² Rec and Park, *supra* note 7.

When San Francisco police displace homeless people from a public space, services are rarely offered.



Displacements SFPD vs. non-SFPD



■ SFPD ■ Non-SFPD

SFPD was responsible for 204 of the 244 displacements reported by survey respondents.

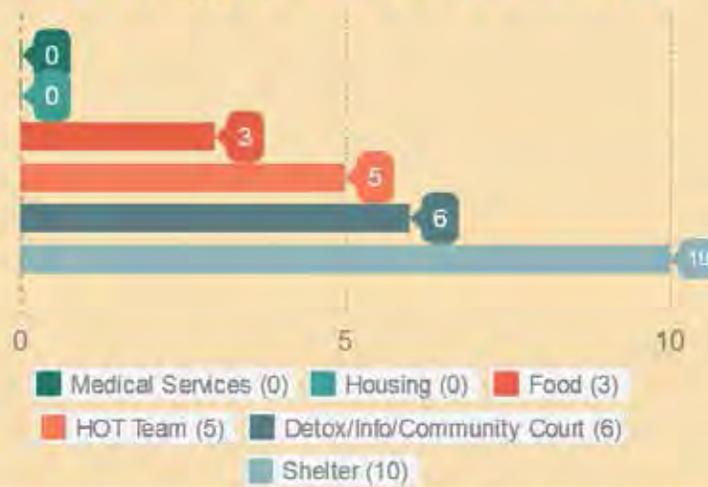
Of these 204 displacements, SFPD offered services in only 24 cases.

SFPD Displacements with Services Offered



■ No Services Offered ■ Services Offered

When referrals or “services” are given, they reinforce punitive practices: Items like a sandwich or a pamphlet are often accompanied by warnings that if the person does not leave the area, s/he will be cited or arrested.



Services Offered by SFPD Out of 204 Displacements

dents, less than 2%, reported that a ranger carried out their most recent displacement. Although, only 5% of respondents reported that DPW was responsible for their last displacement, this is likely due to the practice of sending a police squad car out with the “alley crews” that clear out the city’s campers each morning. It is not uncommon for the police to come along and give a “wake up call” before the cleaning crews come in.

According to Larry Stringer, Director of Operations at DPW, the department was organizing “alley crews” to visit 50 sites a day in December, 2014.⁴³ “One of the biggest challenges when alley crews clean,” he said, is that “the homeless return to the 50 sites to make another mess.”⁴⁴ In a recent investigative article in the *San Francisco Chronicle* by Matier and Ross revealed a number of startling statistics of the cost and efforts expended on clearing campsites of those who have no other place to go.⁴⁵ The journalists found that San Francisco’s DPW is spending \$3 million a year cleaning up encampments and removing 35 tons of “debris” per month.⁴⁶

Camp Evictions By The Numbers

\$3 Million: The amount of money, per year, San Francisco DPW spends evicting encampments.

\$1.3 Million: The amount of money per year Caltrans spends evicting encampments across the entire state.

1: Number of sites set up to shelter people living in encampments (aka Navigation Center).

2,633 Adults and 33 Families: The number of unsheltered people counted on streets, parks, and underpasses in San Francisco’s 2013 point-in-time count, who have nowhere else to go.

Source: All facts and figures regarding camp evictions drawn from Mattier and Ross, “Clearing SF Homeless Camps an Exercise in Futility.” San Francisco Chronicle. March 8, 2015. Navigation Center opened up in May of 2015, to shelter 75 former encampment residents.

Many homeless people congregate under and around the highways and their on-ramps because they are subject to less frequent evictions by the state transportation authority, Caltrans. Nonetheless, Caltrans spends an additional \$1.3 million a year cleaning up camps from on- and off-ramps, and since between July-December 2014 had “closed” 217 camps, only to have them reopen hours later.⁴⁷ Human Services Agency Executive Director Trent Rohrer says the city’s practice of cleaning out encampments—only to see campers instantly return—has been a “colossal waste of city resources and a colossal waste of time.”⁴⁸

How does this policy of continual camp evictions affect homeless people? Our survey did not ask respondents to specify whether they were most recently forced to move from a camp, park, street, or other public space, but results showed a clear relationship between respondents’ current housing situation and whether they had recently been forced to move.

Police Interactions by Living Situation of Respondent

Living Situation	Approached	Approached Monthly	Forced to Move	Cited	5+ Citations
Street	90%	45%	88%	85%	38%
Camping/Parks	90%	46%	92%	83%	49%
Shelter	67%	21%	61%	57%	19%
Vehicle	90%	20%	80%	60%	2%
SRO	78%	12%	55%	60%	9%

43 Sanne Bergh and Paul Lorgerie, [“As Neighbors Decry Spread of Homeless Encampments, One Mission Resident Opens Her Home Instead.”](#) *San Francisco Public Press*, December 19, 2014.

44 *Id.*

45 Mattier and Ross, [“Clearing SF Homeless Camps an Exercise in Futility.”](#) *San Francisco Chronicle*. March 6, 2015.

46 *Id.*

47 *Id.*

48 Mattier and Ross, [“Mayor Ed Lee Tackles Homelessness Ahead of Re-election Campaign.”](#) *San Francisco Chronicle*. March 8, 2015.

Friend/Family	86%	3%	72%	62%	21%
Private Apt.	54%	0%	41%	50%	14%

The findings reflected, as one might expect, that those who resided most in public spaces were most frequently, approached, forced to move, searched, cited, and arrested. When respondents were asked if they had been forced to move from a public space in the past year, 92% of the respondents surveyed who were currently camping reported that they had, compared to 88% of those residing on the streets, 80% of those residing in vehicles, 61% of those in shelter, 55% of those in an SRO. The respondents sleeping on the streets or camping in public spaces also faced far higher frequencies of police interactions, searches, citations, and instances of having their property taken or destroyed. A typical story is presented in the profile of Oscar, one of the study’s interview participants. (*See the following page.*)

Like Oscar, many people who camp outside face frequent searches by police and destruction of camps by the Department of Public Works. Simply living on the streets increases exposure to disease, sickness, and a host of maladies. A tent can significantly decrease the severity and frequency of these health issues, especially for the elderly and disabled who are disproportionately homeless.⁴⁹ Other items lost or destroyed as a result of camp clearances included identification papers, family photos and other items with sentimental value, and medication or health supplies.

City officials claim that confiscating homeless people’s belongings is necessary in order to clean the streets for the purpose of public health, but fail to consider the ways in which displacement and confiscation of needed belongings threaten the health and safety of homeless people.

Searches and the Destruction of Property

One less frequently documented consequence of constant policing is vulnerability to police searches and confiscation of needed belongings by officials from the Department of Public Works. The practices of search and destruction of belongings create additional risks to homeless people’s health and safety. Of survey participants:

- 56% had been searched, and 21% in the last month.
- 46% had their belongings taken away by city officials.
- 38% had their belongings destroyed by city officials.
- 47% reported that their fear of being searched prevented them from carrying certain needed belongings.

For some respondents, fear of being searched may diminish the use of needed health supplies (for example, some respondents told interviewers that they were afraid to carry clean syringes that are distributed by San Francisco’s Department of Public Health). The confiscation and destruction of belongings, including prescription medication, blankets, tents and sleeping bags, threatened homeless participants’ health and well-being. Many respondents who reported having their belongings destroyed had lost various forms of identification. This created significant barriers to accessing government benefits such as employment and housing.

“Homeless Outreach”

In 2004, Greg Suhr (current Chief of Police) launched “Operation Outreach,” with 24 dedicated officers in special “homeless outreach units,” who respond solely to 911 calls regarding complaints involving homelessness during their daily shifts. The official SFPD webpage⁵⁰ on homelessness entitled “Quality of Life / Homelessness: Interacting with the Homeless Community,” suggests officers are acting as some sort of social service worker:

“Homelessness is a complex social problem, one not easily addressed by a law enforcement approach. Citizens of San Francisco should know that members of the San Francisco Police Department treat all persons equally, regard-

⁴⁹ Stephen W. Hwang, “Homelessness and health.” *Canadian medical association Journal* 164, no. 2 (2001): 229-233.

⁵⁰ SFPD webpage, “Quality of Life / Homelessness”: <http://sf-police.org/index.aspx?page=4441>.

Oscar's story

Oscar has what he calls “constant contact” with police. “I’m asked to move at least three times a day, depending on the day,” he says. “This morning I had my tent torn down, then six cops told me to move along. There was nothing on the street except for me. With nowhere else to go, Oscar said, “I moved down to the corner. I felt the same because they would come back. A couple of officers have it out for me, and throw my stuff away.” Oscar does not think that his constant contact with police is the result of complaints by neighbors, since he is careful to stay out of view. “I have to hide like a dog at night,” he says. How police treat him, he says, “depends on cops’ mood. Usually it’s rotten. In the last 15 days they’ve been getting in my face every day... these police, you never know how they’re going to react. You better be neat, courteous and polite, because they won’t be to you... I’ve been to Fisherman’s Wharf where the cops literally beat you. Same way with Golden Gate Park they’ll push you around, shove you around and beat your bones. The older you get, the easier they are, but the younger you are, you’re gonna get a beating. You’re not gonna run or hide, you’re getting a beating.”

Waking up to the sound of a nightstick against his tent and a new citation, he says, “makes me feel like a criminal. I get [a citation] every day, like clockwork.

I have 19 warrants right now. I have one court date, but I still have four more warrants... No way I could pay the fine—it’s added up to \$22,000.”

In addition to police, Oscar encounters officials from the Department of Public Works who destroy his camp and confiscate his possessions. Some of his belongings that have been taken away and destroyed include his sleeping bag, tent, clothing, and food. “This is something I don’t buy with city money. I buy this with my own hard-earned money,” he says.

“I don’t keep possessions on me like family heirlooms or jewelry because they’ll throw it all away. Things that are irreplaceable and they literally throw it all away. The other day they threw away a \$700 tent I had. I’ve had it for four years and they woke me up, made me take it down and threw it in back of DPW truck... I had three dozen tents thrown away, more than half of them when I was there, and I only got two or three back... I’ve gotten pneumonia from having nothing to sleep on for six weeks, from sleeping in the doorway... You have comfortability if you’re living inside. You don’t have any comfortability when you’re sleeping outside against the wall.”

less of their economic or living conditions. People experiencing homelessness have the same legal and individual rights afforded to others.

“Homelessness impacts the quality of life of those visiting or living in San Francisco. Operation Outreach, created in 2004 by Chief Greg Suhr, dedicated officers to a special unit, based in district police stations, as part of the city’s overall, coordinated response to homelessness. This unit is tasked with handling quality of life related incidents and impacts of homelessness at the neighborhood level. The mission of Operation Outreach is to locate the homeless where ever they might be and to determine their needs. Outreach Officers work with city agencies, such as the Department of Public Health, The Community Justice Court, the Serial Inebriate Program, the Human Services Agency, and the Department of Public Works to provide targeted services for those in need while addressing quality of life concerns in the communities we serve.”

“I’ve had five tents taken from me in the past year, and twice, all my belongings in it: ID, Social Security Papers, family photos, all destroyed.”

This description of “Operation Outreach” clashed with our own findings, where only 24 of 204 respondents who had been displaced by the SFPD in the last year reported being offered services of any kind in their most recent interaction—even the pamphlet officers are required to give homeless people.

To understand this discrepancy, we shared some of our findings with Lt. Michael Nevin of the SFPD, the Department’s Outreach Coordinator. Nevin expressed frustration about the directive to enforce anti-homeless laws and explained that many police officers would prefer not to enforce “quality of life” laws, and would rather focus on serious crimes.⁵¹ However, he said, police must enforce laws that are on the books, regardless of whether they agree that policing is an appropriate response: “If Mrs. Smith continues to call 911 because some guy’s sleeping on her door step, we are duty-bound to respond.” He stressed that the real solution was supportive housing “Because a) that’s humane, b) that would be more productive for society and c) I don’t think police departments can solve homeless issues on their own.”⁵²

Police are not meant to be social workers, and have no ability to place people into housing. They do, however, coordinate with the city’s other “homeless outreach” program, the Homeless Outreach Team (HOT). The HOT team is under management of the Department of Public Health, but their resources to place people in housing are extremely limited. In the month of March 2015, the HOT team placed a total of five homeless people in permanent housing. Between July 2014-March 2015, the HOT team placed 81 homeless people in permanent housing.⁵³ This is an average of 9 people placed in housing each month. More frequently, HOT staff provide street based medical care, crisis intervention, case management, and a sort of taxi service shuttling homeless between short-term shelter beds and stabilization beds and medical services.

The ultimate result of the scarcity of long-term housing and services is that “homeless outreach” in San Francisco is primarily a punitive affair. Feeling the need to respond to the litany of anti-homeless laws on the books, the SFPD outreach unit is in most cases forced to displace a homeless person without being able to offer any substantive services. Police officers often interact with homeless people through a warning or quite frequently a citation, leaving the homeless person with no better alternative than another park, doorway, or city sidewalk.

Conclusion

Homeless people are not in public space by choice. They are in public space because they cannot afford rent and have nowhere else to go. San Francisco has a total of 1,210 shelter beds for single adults with a homeless population hovering at over 6,400 at any given time.⁵⁴ This amounts to roughly 1 shelter bed for every 5 homeless people. On any given day, over 500 people are on the 311 shelter wait list, and on any given night, there are between 20-100 peo-

⁵¹ Interview with Lt. Nevin, SFPD, Homeless Outreach Coordinator (June 2015).

⁵² *Id.*

⁵³ Correspondence with Brenda Meskan, LMFT, Director of the San Francisco Homeless Outreach Team (May, 2015).

⁵⁴ CHANGES: Homeless Information Management System Monthly Report July, 2014.; Applied Survey Research, *supra* note 6.

ple who sleep in chairs because they were unable to access a shelter bed for the evening. During the day, the vast majority of shelters are closed. The city only has a handful of drop-in centers, leaving the parks, library, and pews of St. Boniface Church where poor people are invited inside to rest until 3pm as the only truly public spaces—although if one falls asleep at the library, a guard will promptly wake them up.

Amidst these highly limited options, homeless people face continual police interactions and displacement. Our survey found that displacement from public space affects a majority of respondents experiencing homelessness in San Francisco (74%), not just a select group of repeat offenders. The most common result of interactions was displacement and citation; nearly 10 times more respondents received citations than informational handouts on services.

Anti-homeless laws violate homeless people's constitutional and human rights. These laws are also ineffective tools for moving people out of public space. The forced removal of homeless people from a given area may prove temporarily beneficial to a particular shop owner or particular residents at the time of their complaint. However, the overall effect is to shuffle homeless people to other public spaces, where other business owners or residents might complain: 91% of survey respondents remained in public space continuing the prohibited activities of sitting, resting, or loitering elsewhere, most often nearby.

Police interactions often lead to legal, employment, and housing barriers as discussed in the subsequent sections. Therefore, not only does “quality of life” policing fail to improve the quality of life of homeless people, it also fails to improve the quality of life of “merchants, residents, or visitors” that these laws claim to serve. Instead, “quality of life” policing makes life worse for everyone by prolonging people's homelessness.

Recommendations

End the Constant Policing and Continual Displacement

Legislative Reforms

- Prohibit the enforcement of laws that allow SFPD to remove a homeless person from their area when they are not obstructing pathways or breaking any other laws. This would greatly reduce the 192 hours of officer time dedicated to 911 calls about homeless people in public space every day (see conclusion for details). It would also allow officers to avoid issuing citations to those sitting, sleeping, and camping simply because they have nowhere else to go.
- Pass the “Right to Rest” Act at the state level, which would overturn local laws that criminalize sitting, resting and other life-sustaining activities in public space.
- Repeal San Francisco's park closure ordinance.

“Every day it's a different place! This morning we're sleeping on sidewalks and they have to wash the sidewalk. Some places are actually dangerous... I don't like nothing about sleeping in piss... with all these strange men around... My comfort zone is down by the BART. That's my outside home. It's warm and it's where I feel safe... I try to be invisible. I have several fare evasion tickets. There are warrants, I'm sure. The BART police took me to jail twice... The last one I was arrested was because of for prohibition for 30 days. I wasn't supposed to be in the BART. I was sleeping and the police came and ran me. They gave citation for fare evasion, but because of the 30-day restriction, they towed me to Santa Rita jail... Then they tell me I'll wait all day long from 7 or 8 in morning until 2 o' clock at night. It's a long ways to walk when you got nowhere to go. So I slept at the jail. I refused to leave.”

—Beneeta, age 40

Reduce the Resources Dedicated to Moving Homeless People Around and Allocate Resources to Real Solutions to Help End Homelessness.

Agency Reforms

- According to park officials, quality-of-life citations in the parks have increased because new rangers were hired to focus on citations, not due to specific complaints about homeless people in the parks. Rangers should stop issuing anti-homeless citations and re-focus resources away from policing homeless people.
- Disband the “Homeless Outreach” Unit of the San Francisco Police Department (SFPD). The intent of the unit, which was to move beyond ticketing and assist homeless people in crisis, cannot be realized. Instead, the unit serves instead as a on-call security guard service for a select group of merchants and residents who report the presence of homeless people. This wastes police resources and has the effect of simply moving people around and increasing the number of anti-homeless citations.
- The Department of Public Works (DPW) should halt camp evictions until there is enough housing and shelter for all. Our survey found that being forced to move did not cause homeless people to move out of public space.
- SFPD should cease searches of homeless people who are approached simply for being in public. An alarmingly high number of our homeless respondents were searched by police. (21% of respondents were searched in the last month alone). Many interview participants described being searched after police interactions that began simply because they were sitting, standing, or sleeping in public.
- DPW and the Parks and Recreation Department should stop confiscating and destroying people’s belongings without notice. Survey respondents and interviewees described frequently having their belongings taken (46%) or destroyed (38%). Destruction of personal property by city officials has resulted in costly lawsuits in a number of cities across the country.

Create Alternatives So People Don’t Have to Perform Life-Sustaining Activities in Public

Legislative, Agency Reforms and Citizen Action Steps

- Invest in affordable housing. Our results showed that an important predictor of the frequency of interactions with law enforcement, displacement, and citation was housing stability: Those in privately rented apartments and staying with family or friends experienced far less criminalization than respondents staying on the streets or in camps. Housing investments should include supportive housing for those in need of additional services, as well as affordable housing, short term and long term private rental subsidies, and public housing.
- Invest in improving the quality of and access to temporary shelter. Some survey participants explained they were not in homeless shelters because accessing shelters proved too difficult. Others explained that the shelters did not meet their needs or feel like dignified places. Survey respondents in shelters experienced less citation and less displacement than their counterparts living on the streets or camping.
- Provide more and higher quality public restrooms and showers. The implementation of the city’s mobile pit-stop in the Tenderloin has greatly reduced the need for city cleaning crews, and has been a far more effective way to promote public health and hygiene than “quality of life” policing.
- Create safe and legal parking for the vehicularly housed through city department examination of parking restrictions and ensuring adequate overnight parking for large vehicles throughout the city. The Board of Supervisors approved a large vehicle ban, which the Municipal Transportation Agency has expanded repeatedly. In addition, they have restricted overnight parking in industrial areas.
- Encourage private entities to open up their space. A prime example of a private organization that has opened its doors to the city’s poorest is the Gubbio Project at St. Boniface, where from 6am (when many shelters start closing their doors) to 3pm, anyone can come and sit, lie down, and sleep in a section of its pews. Churches in many municipalities across the country have also opened their lots to the vehicularly housed.

Mass Citation and Impossible Fines

“It just delays what I’m trying to do what is good for me... I haven’t got rid of them all and that’s going to delay my situation with housing.”

—Assad, a 31-year-old currently residing at the Navigation Center

The frequent and widespread interactions between police officers and homeless people result in the issuance of thousands of citations each year. The majority of these tickets, according to city data and our own survey findings, are given for sleeping, resting, or sitting—behaviors that all people must engage in, but that only homeless people are ticketed for. The vast majority of these tickets, some 90%, go unpaid, not because homeless people do not want to pay the fines, but because they are too poor to do so.

The impacts of these unpaid fines are devastating. The doubling or tripling of the initial unpaid fine complicates a homeless person’s path out of poverty and can result in a suspended drivers’ license, spoiled credit, and disqualification from housing and job opportunities. In nearly all cases, citations lead to lengthy and costly court procedures. Citations frequently result in the issuance of an arrest warrant that solidifies a homeless person’s criminal status, and sometimes lead to time in jail.

Key Findings

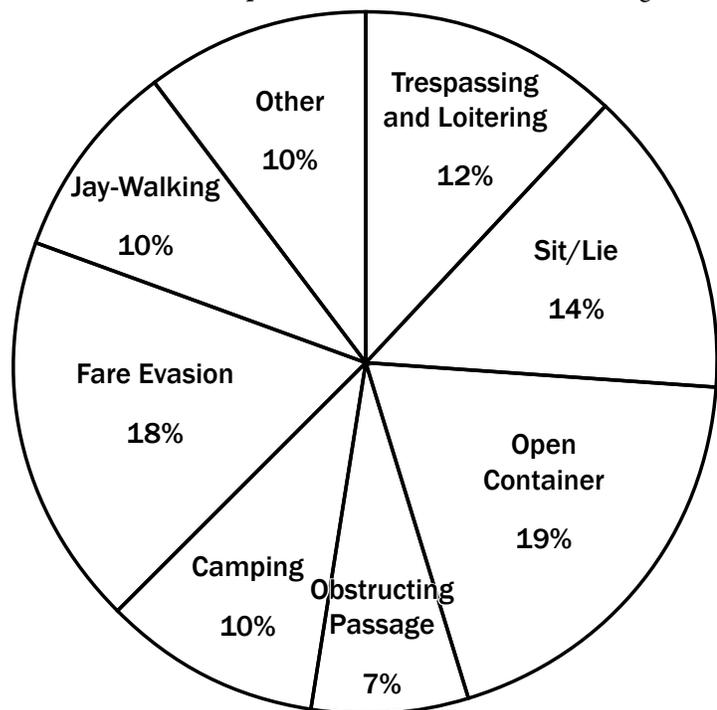
- 69% of respondents were cited in the past year. 22% received more than 5 citations.
- 90% of respondents reported that they were unable and did not pay their last citation.
- Of those cited, 68% reported that they did nothing to resolve their last citation, which should result in more than doubling of the fine, a suspended driver’s license, and issuance of an arrest warrant.
- According to Police and Recs and Parks data, citations for anti-homeless laws have increased threefold and sixfold respectively since 2011.

Relentless and Disproportional Ticketing

Just as our survey found that being forced to move from a public space was the rule rather than the exception for homeless people, the majority of respondents experiencing homelessness in San Francisco receive multiple citations for so-called “quality of life” offenses every year.

A far higher number of survey respondents reported interactions with police officers than citations. Although it is more common for officers to move homeless people on with the threat of citation or arrest, 69% of respondents received a citation in the past year. This is equal to the proportion of those who reported being forced to move from a public space (70%) and only slightly lower than those who interacted with police (74%).

Furthermore, most respondents had received more than one citation, and 22% of the total sample had received over five citations in the past year. Although we did not survey the general population of San Francisco about how frequently they were cited, the disproportional issuance of citations to homeless people is clear. In fact, many survey respondents, most of whom had lived housed in San Francisco for years, explained that they had never received any of these citations or fines until they had become homeless.



What was your Last Citation For?

Our survey asked people if they had ever been cited by SFPD, and what their most recent citation was for. 43% of the most recent citations were for violating what would be considered anti-homeless laws—ordinances prohibiting sleeping/camping, sitting, or begging. Another 30% were for “quality of life violations,” namely jaywalking and open-container. These violations disproportionately affect homeless people who cannot afford to drink in private spaces and most often reside in poor central city areas where the prohibition against jaywalking is primarily enforced (again often in a discriminatory fashion). Finally, a significant number (18%) reported that their most recent citation was for MUNI or BART fare evasion. Although municipal public transit provides free or discounted passes for seniors, youth, and disabled San Franciscans, it provides nothing to the economically disadvantaged who have no means to pay the fare, which by US standards is extremely high.

These findings support those of a recent survey conducted by the Western Regional Advocacy Project (WRAP) in San Francisco, as well as other cities in California, Colorado, Oregon, and Washington.⁵⁵ Rather than being asked about their most recent citation, WRAP asked homeless respondents if they had ever been cited for violating a number of anti-homeless laws. Of the 250 respondents to WRAP’s survey in San Francisco, 63% had been cited for sleeping, 56% had been cited for sitting or lying down, and 52% had been cited for loitering or hanging out during their current episode of homelessness.

The high frequency of ticketing reported in our survey also aligns with data we received from city agencies through a series of Freedom of Information Act Requests. On average, nearly 100 citations are given out each week for activities associated with homelessness in San Francisco. According to citation data of the San Francisco Police Department, in 2013 (the last full year records have been processed) over 5,000 citations were issued for “quality of life” crimes that predominantly if not exclusively apply to homeless people.⁵⁶ A further 977 citations were issued by the Parks and Recreation Department for sleeping, camping or being in parks after-hours.⁵⁷ Contrary to common claims that these citations only affect a small number of repeat offenders, our survey data demonstrate that these tickets are given to a large group of those experiencing homelessness.

Records of police citations maintained by the San Francisco Human Services Agency indicate that police issued 51,757 citations for “quality of life crimes,” of which over 22,000 citations were for violating “anti-homeless laws” between October 2006 and March 2014.⁵⁸ As reviewed at greater length in the introduction, the more broadly defined “quality of life” laws include offenses such as drinking in public, dogs off leash, littering, vending without a permit, which ac-

“We had a gentleman come in the other day ago, he had 47 jaywalking tickets. He has severe mental health issues. For some reason he crosses the same block constantly between these intersections. And the cop is just hammering him. And we’re looking at the tickets and the same officers over and over again... I mean you can barely communicate with him because his mental health issues are so severe.”

—Gary Lewis, Former Executive Director from General Assistance Advocacy Project.

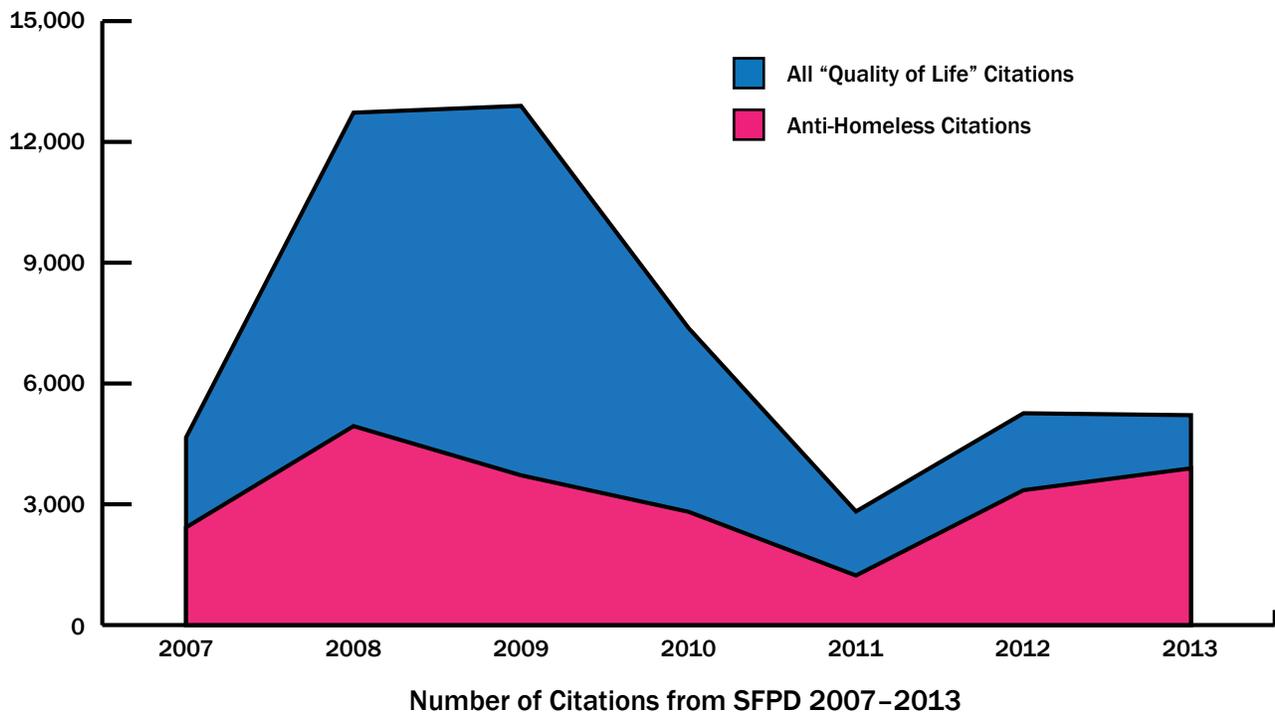
47 jaywalking tickets = \$7,050. After unpaid fines increased = \$21,150

⁵⁵ Western Regional Advocacy Project. “[National Civil Rights Outreach Fact Sheet](#)” (December 2, 2014).

⁵⁶ HSA collects data on police citations issued under a set of “quality-of-life” laws. The San Francisco Police Department does not log citation data directly. Instead, police officers make copies of citations issued and send them to the HSA for data entry. John Murray, the HSA employee in charge of compiling citation data, indicated that police occasionally forget to send copies of all citations, and that certain citations are not logged by the HSA because they are illegible. Lt. Michael Nevin of the SFPD also said that this process was inefficient and resulted in an under-count of citations issued. Due to these factors, the HSA data used in our study likely under-report the total number of citations issued by the San Francisco Police Department. Nevin is working with SFPD’s technology department to use a database that will track citations more accurately than the current paper-based system. Interview with John Murray, (February, 2015); Interview with Lt. Michael Nevin (June, 2015).

⁵⁷ Rec and Park, *supra* note 7.

⁵⁸ HSA, *supra* note 7.



Source: Human Services Agency, San Francisco

According to studies have shown a discriminatory and disproportional effect on the homeless.⁵⁹ Anti-homeless laws refer to the types of life-sustaining activities that homeless people have no choice but to undertake in public: (1) standing, sitting, and resting in public spaces, including loitering and “vagrancy” (daytime restrictions); (2) sleeping, camping, and lodging in public places, including in vehicles (nighttime restrictions); and (3) begging and panhandling.

Ticketing for violation of anti-homeless laws is on the rise. Since 2011, the SFPD has nearly tripled the number of citations issued for sleeping, sitting, and begging from issuing 1,231 tickets in 2011 to 3,350 in 2013. An even more dramatic punitive push is seen with San Francisco’s Parks where citations for camping and sleeping exploded six times over from 165 citations in 2011 to 963 in 2014.

What is driving these increases in citations? According to SFPD Lieutenant Michael Nevin, interviewed for this report, police interaction with homeless people is the outcome of business and residents’ complaints, and not mainly the initiative of officers.⁶⁰ Rec and Park, on the other hand, explained that the increase was not driven by specific citizen complaints, but an increase in the number of rangers patrolling the parks.⁶¹ While it is unclear what drives the ramping up of citations that disproportionately affect homeless people, it seems to have more to do with bureaucratic and political changes than fluctuations in the “criminal activities” themselves. It is not as if sleeping in San Francisco’s parks increased six-fold, or the number of people camping, sleeping, or lying on city streets doubled over a two year period. The dramatic fluctuations of citations indicate that such ticketing is at the discretion of city agencies, at least in terms of resources, and that citations are systematically under-counted.

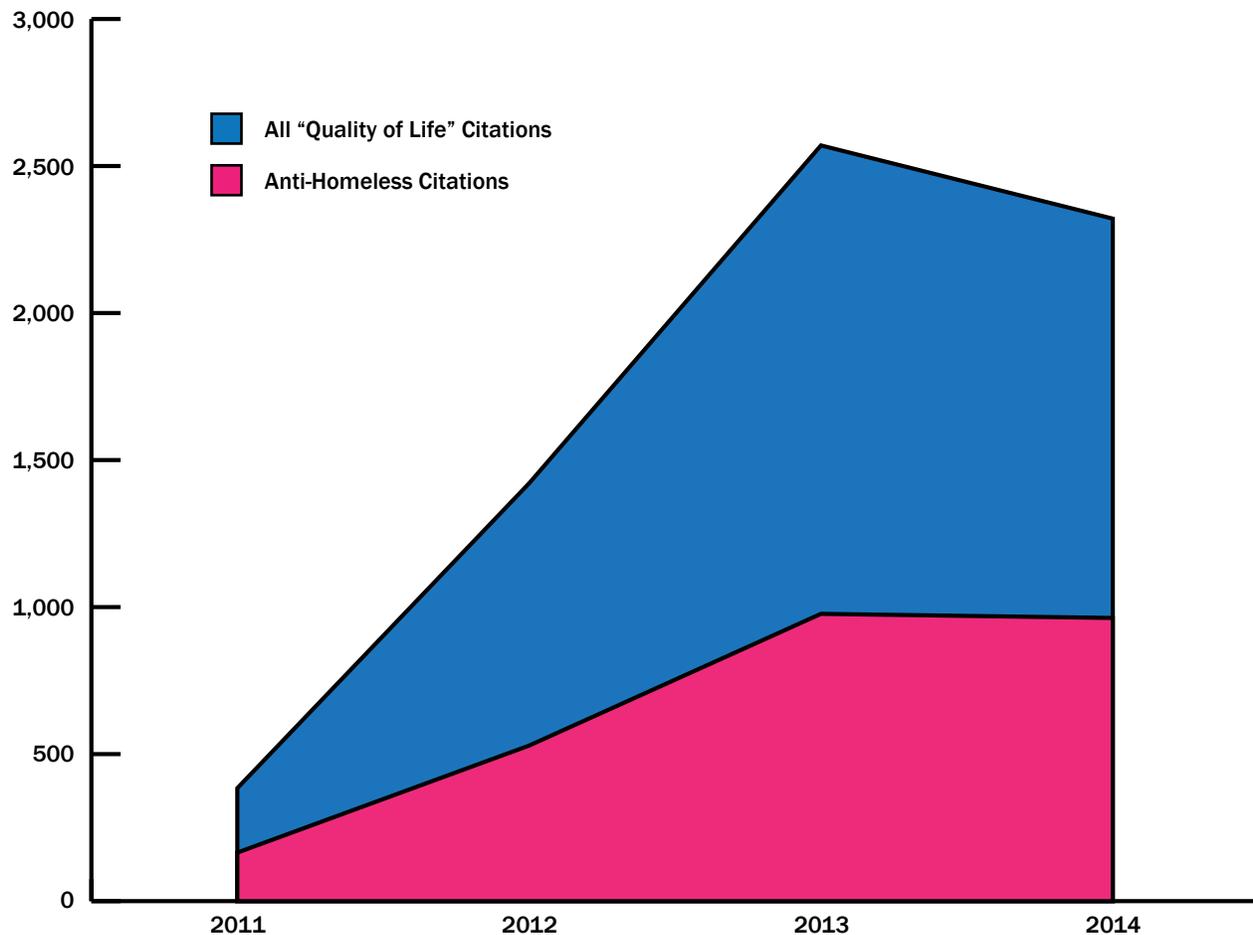
Another significant finding in the city data is that of all the quality of life codes on the books, between 2006-2014 San Francisco issued more citations for standing, sitting, and sleeping/camping than any other type of prohibited activity.⁶² San Francisco issued nearly 4,100 citations under two municipal codes prohibiting obstruction of streets and sidewalks. In addition, over 1,300 citations have been issued since 2011 under Municipal Police Code 168, a law

⁵⁹ See Alex Vitale’s *City of Disorder: How the Quality of Life Campaign Transformed New York Politics* (NYU Press, 2008) and Beckett and Herbert’s *Banished: The New Social Control in Urban America* (Oxford, 2011) for an analysis of the disproportional impact of quality of life laws on homeless people in New York City and Seattle.

⁶⁰ Interview with Lt. Nevin, SFPD, Homeless Outreach Coordinator (June 2015).

⁶¹ Joshua Sabatini, “Citations for sleeping, camping in SF parks balloon,” *The San Francisco Examiner*, May 3, 2015.

⁶² HSA, *supra* note 7.



Number of Citations from Parks and Rec 2011-2014

Source: Department of Parks and Recreation, San Francisco

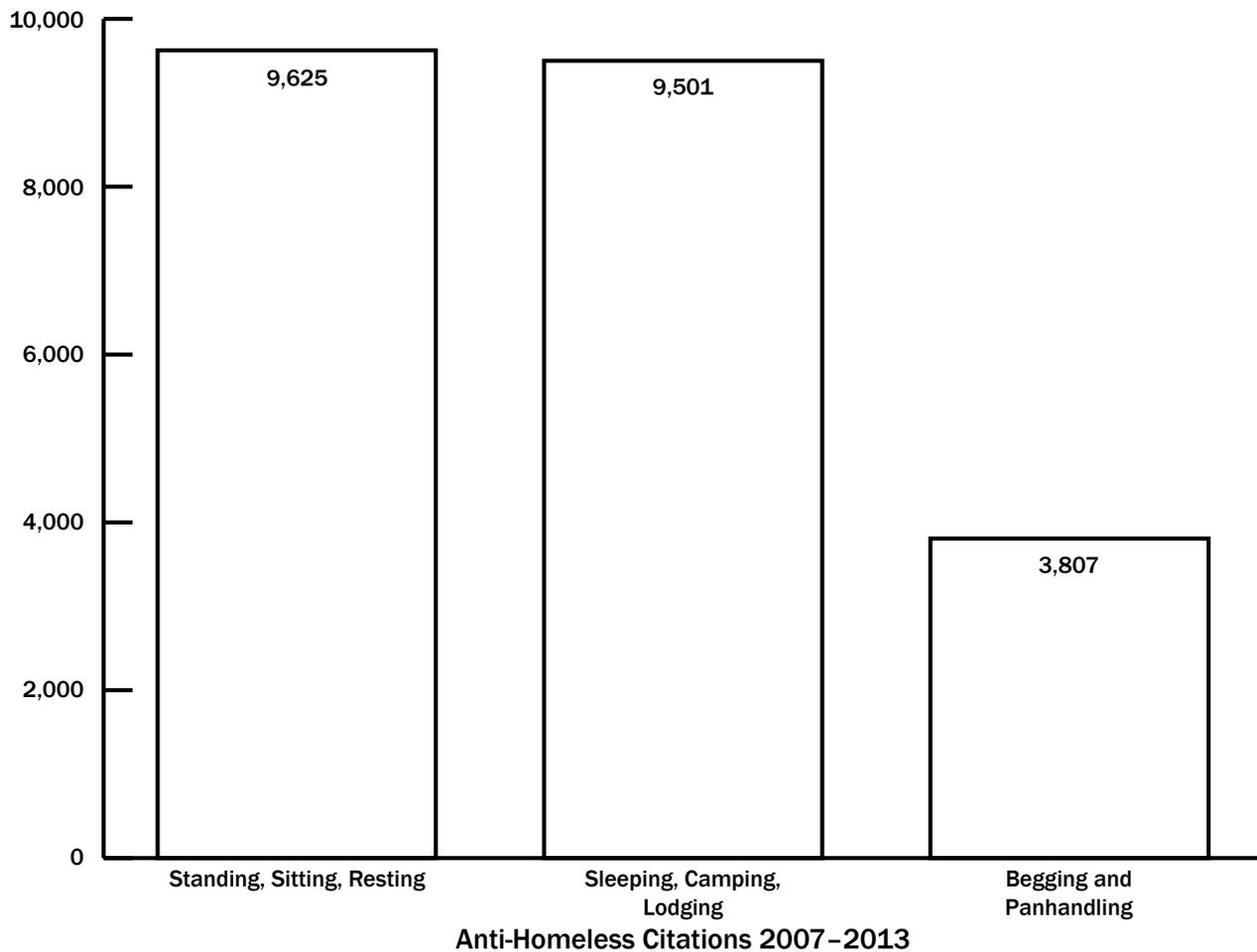
enacted in November 2010 that prohibits people from sitting or lying on city sidewalks between 7am and 11pm. Thus, a significant proportion of policing in San Francisco targets people without homes who are engaged in necessary, life-sustaining activities.

Analysis of the most recent data shows that SFPD enforcement is increasingly focused on the anti-homeless laws within the municipal code. In 2013, 3,893 of the 5,213 “quality of life” citations given by the SFPD, or 70% of all such citations, were issued for violating anti-homeless laws. Compare this to the 7-year average, where anti-homeless citations accounted for 43% of quality of life citations. This pattern of disproportionate citation also aligns with statewide trends in arrest rates. Since 2000, arrests in California for “vagrancy” offenses have increased by 77%, even as arrests for “drunkenness” and “disorderly conduct” have decreased by 16% and 48% respectively.⁶³ All of this suggests that by the very nature of the laws enforced (prohibiting sleeping, resting, or sitting) enforcement of anti-homeless laws is increasingly based on status, not behavior.

Several studies have found that “quality of life” laws, from drinking in public to failing to have a dog on the leash and various other offenses such as jaywalking, disproportionately affect the poor, who tend to live in more heavily policed areas and are seen as being ‘out of place’ and suspect in wealthier business and residential districts.⁶⁴ This disproportional impact is redoubled in the case of homeless people whose poverty is often more visible due to their lack of access to storage, sanitation, and most simply privacy.

⁶³ UC Berkeley Law School Policy Advocacy Clinic, *supra* note 5.

⁶⁴ Alex Vitale, *supra* note 14.



Process as Punishment: The Irrelevance of Resolving Fines

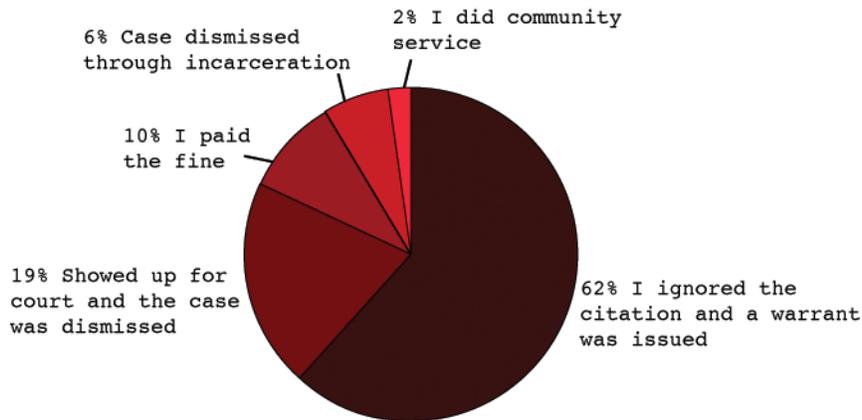
What happens to the thousands of citations handed to the city’s homeless each year? Our study found that only 10% of respondents handled their most recent citation as citations are normally resolved by the housed—through payment. The remaining 90% of respondents confronted a maze of bureaucratic processes and additional penalties that perpetuate rather than alleviate the homeless condition at which they are aimed.

Following the flow chart on pages we see three general paths to resolving a citation. The path least travelled is paying the fine, which averages around \$150—a path that was taken by only 10% of respondents in the case of their most recent citation.

The second path, which 21% of respondents took, was to resolve their fine through the time consuming and often confusing alternatives of documenting hours spent receiving social services or doing community service. For a significant number of survey respondents (19%) their most recent citation was dismissed either because it was a first time offense, or more likely, because they documented their interactions with homeless service providers. To take this route, the offender must first go to the courthouse at 850 Bryant and schedule a court date, attend arraignment, and attend another court date to present a signed form documenting the hours of services received.

In practice, people who are determined homeless by a judge are required to document “service hours” without being offered housing or other support. Without being offered any additional support that improves their plight, the homeless “offender” has been rolled through a time-consuming and costly procedure, for both herself and the court. As Z, a 22-year-old African American woman who described her experience with this process explains: “Technically, it made me feel like I was a piece on somebody’s Monopoly game board.”

Citation Outcomes



What was the outcome of your most recent citation?

This time-consuming and expensive policy of making homeless people go through a complicated court process is predicated on the false assumption that homeless people are “service resistant” and need to be pushed to take advantage of the ample services that are available. This assumption is false because most homeless people who are cited are already receiving services. While these services—for example free meals or emergency shelter—help sustain life from day to day, they do not allow people opportunities to exit homelessness.

Only 2% of survey respondents resolved their fines through community service. This route not only involves the same time-consuming court procedures described above, but an additional number of community service hours. For a \$150 citation, which is most common, this would require 20 hours, which is equivalent to being paid at a rate of \$10/hr. The extra 5 hours is calculated to account for a \$25 fee taken by the court and a \$25 fee paid to the provider who manages the community service program. To entice offenders into the unpopular chore of cleaning San Francisco’s streets, the rate has been bumped up to the 2018 minimum wage of \$15/hr.⁶⁵

Finally, a person who feels they have been wrongly accused of committing a quality of life crime can take the case to trial. However, none of the 240 survey respondents who reported receiving a citation took this option. People who have received citations do not have a right to counsel in traffic court, even though the DA assigns a prosecutor to these cases. The primary function of the DA’s staff is to do everything possible to get a plea of no contest from the accused. Homeless people are pressured to take service hours, even if the ticket was wrongfully given, in order prevent a trial that would prove costly to the court and the police department, which would have to send their officers to the court date. One judge has told clients that if they were to take their case to trial and were to lose they would face an additional \$300 fee without the ability to receive service hours—a powerful threat for an impoverished defendant.⁶⁶ If even just a small number of citations that were questionably issued were to go to trial, the court’s docket would quickly become backed up for months on end. Under the current system, were a person boldly to take their ticket to trial, it would likely be 6-7 months before the ticket would be resolved.

Counter-Productive Impacts: How Unpaid Citations Perpetuate Homelessness at Cost to the City

Most homeless people do not pay their fines on time, if ever. 68% of respondents reported that they simply ignored their most recent citation. Some had tried to resolve it through the courts, but had missed their first court date, which results in an immediate bench warrant and having their initial fine added to a \$300 fee sent directly to a private collection agency, which prevents any further judicial recourse.⁶⁷ Others with serious mental disabilities were

⁶⁵ Interview with Gary Lewis, former Director of General Assistance Advocacy Project (May 12, 2015).

⁶⁶ *Id.*

⁶⁷ *Id.*

“More citations are issued for standing, sitting, and sleeping/camping than any other type of prohibited activity.”

unable to decipher what even the first steps of the process would be. Many did not know that there was an option to document hours spent engaged in homeless services or community service. Although a number of homeless people reported that the officer handing out the citation told them that it was nothing to worry about, and that they could take it to the Coalition on Homelessness for help resolving it—pointing to the police’s own perception of the process as punishment—most were not informed of this option. So once homeless respondents were handed a ticket they clearly could not pay, many decided that there was

simply nothing they could do. Others who have been homeless for longer periods and are frequently ticketed made what they saw as a rational decision, simply ignoring the ticket and just waiting until they would be brought into jail where the city would clear the fines after they had been incarcerated. In short, the majority of the thousands of tickets issued to San Francisco’s homeless go unpaid, and these unpaid fines can have devastating impacts.

Impacts on Homeless People

Thirty days after a citation is issued, the fine is increased by \$300, an arrest warrant is issued, and the Department of Motor Vehicles is notified. After 30 more days the fine goes to a collection agency, credit is impacted, and court personnel often claim “no jurisdiction” over the case, and refuse to reconsider it. After a further 30 days, the DMV suspends the person’s driver’s license. As Assad, a 30-year old African American man currently residing at the Navigation Center explained: “It just delays what I’m trying to do what is good for me... I haven’t got rid of them all and that’s going to delay on my situation with housing.”

The penalties described above are for a single citation, but as our study found, most homeless respondents had received multiple fines, and 25% of those who received citations had been issued over 10 in the past year. The unpaid fines quickly add up to a significant barrier of gaining employment, accessing housing, and ultimately exiting homelessness. And when the individual finally does exit homelessness, this already harrowing experience is compounded by a legacy of debt.

First are the barriers to employment. A suspended driver’s license is a significant barrier to employment.⁶⁸ While, license suspensions were originally used to promote driving safety by punishing and removing unsafe drivers from the road and thereby encouraging safe driving, today suspension applies to unpaid tickets that have nothing to do with driving, and is mainly applied as a tool for debt collection. Although employers will not usually catch the arrest warrants issued for unpaid fines, a suspended license is increasingly a red flag of a person’s entanglements with the criminal justice system. Especially as more and more companies now have removed the question about whether or not a person has a criminal record from job applications, they are now looking to the question of whether one has a valid driver’s license as a proxy. The suspended license also disqualifies job-seekers from driving and delivery work, and most importantly, narrows the scope of employment and mobility by preventing people from applying to a far larger number of jobs requiring commutes. Rutgers University researchers found that following a license suspension, 42% of people lost jobs as a result of the suspension. Of those who lost their jobs 45% could not find another job, and this effect was most pronounced for seniors and low-income people.⁶⁹

The Impact of an Unpaid Citation

Immediate Impact

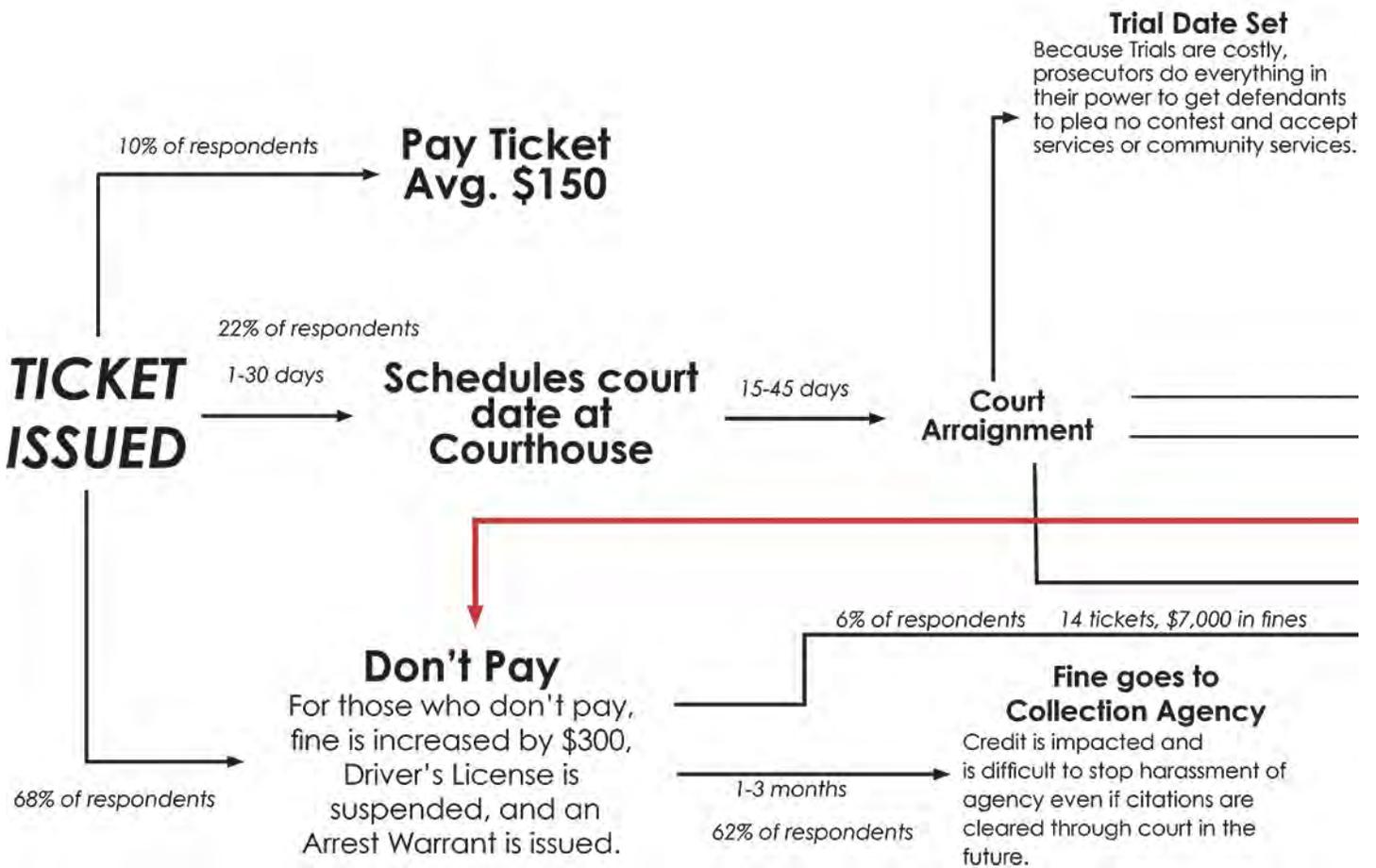
Fine Increases \$300 and may go to collections
Drivers License suspended
Arrest Warrant Issued

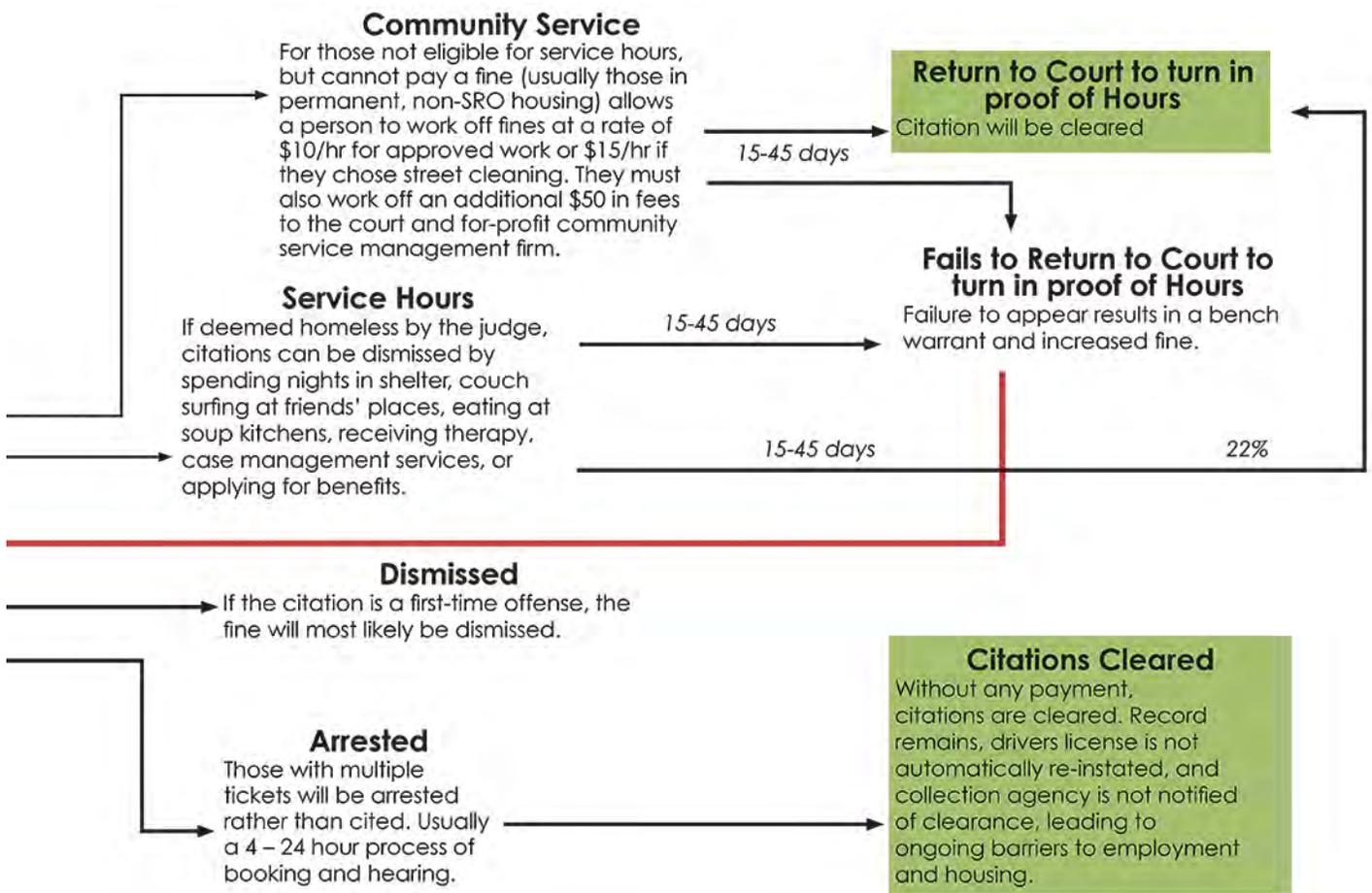
Lingering Impact

Harder to get housing with bad credit
Harder to get a job without a license
Court debt lingers even once exiting homelessness.

68 For an in-depth and broader analysis of the effects of fines, fees, and the suspension of drivers license on the poor more generally see Lawyers’ Committee for Civil Rights of the San Francisco Bay Area et al., [Not Just a Ferguson Problem: How Traffic Courts Drive Inequality in California](#) (2015).

69 Cited in Alan M. Vorhees, Transportation Center et. al. *Motor Vehicles Affordability and Fairness Task Force Final Report* xii. (2006).





“I have ignored [citations] because I cannot pay for them. A couple of them I was told to bring them to get signed off for services, but I’ve lost a majority of them being shuffled from place to place. I know citations I’ve received will prevent me from getting any kind of credit. If I took the money to pay citations, the food money would be nonexistent, the one or two days a month I’m able to sleep in hotel, it would be gone... I guess I’m being a little mule-headed in my understanding of when you’re tired and you stop for 5 minutes and get a \$200 ticket for it, it’s ridiculous. Guilty of sitting, yes.”

—Beti, a 75-year-old white transgender man.

Second are the barriers to housing. Unpaid fines, especially multiple citations, can quickly spoil a person’s credit and in turn disqualify their applications for housing, especially in the highly competitive market of San Francisco. Arrest warrants also disqualify individuals from receiving Section 8, Public Housing Assistance and other city sponsored housing. Therefore, even if someone is to finally become employed, they face a series of challenges to obtaining housing and becoming financially sustainable. A number of San Francisco shelter residents are currently employed, but cannot afford to pay rent because they spend most of their incomes to pay private and state debts, including those that result

from citations. Only after these debts are paid will they be able to re-enter housing.

Even when a person eventually does become housed—the vast majority of people who experience homelessness in San Francisco exit homelessness in less than a year—the unpaid fines remain a lingering barrier to moving on. With each unpaid fine averaging near \$500, many people who are cited while homeless leave the streets with thousands of dollars in court ordered debt, of which every cent must be paid to have one’s license re-instated, even if that person is making monthly payments.⁷⁰ This leaves many precariously housed and in danger of returning to homelessness.

Finally, six percent of survey respondents resolved their tickets through incarceration. With the first unpaid citation, an arrest warrant is issued, which gives the police the power to jail you. Typically an officer will not do so, but officers can use such warrants to remove a person from public space, remove a camp, or to punish any number of other behaviors that do not typically warrant arrest. The overhanging warrants for citations also discourage some from going to police for help, reporting crimes, or even accessing medical or social benefits out of the (largely false) fear that they may be detained.

However, the current unofficial policy is that when a person amasses fines anywhere between \$7,000-7,500, or about 14 tickets, an officer will arrest a person and book them into the county jail.⁷¹ The process usually takes less than 24 hours, but can also mean an overnight stay in jail, after which the total amount of a person’s fines and warrants are completely cleared. While the record of citations may impact the court’s perception of the offender’s character if he or she is ever charged in the future, the cleared offenses are not accessible to employers. Even if it is the path least followed, for many homeless people, incarceration is the only route to resolving citations.

Impacts on the City

City agencies collect little data on the costs of this extensive program of punishing the poor. The city agencies contacted for this study could not provide any evidence that San Francisco’s punitive policies reduced the prevalence of any of the so-called criminal activities that such citations aim to deter. Not only are these policies ineffective, they are also expensive: First are the costs of enforcement. Even if citations take 10 minutes or less to issue, such

⁷⁰ In its March 2015 Ferguson report, the U.S. Department of Justice strongly critiqued Missouri’s state law mandating driver’s license suspensions for non-traffic safety reasons, noting that such suspensions, apart from making the resolution of court cases more difficult, can have “broad ramifications for individuals’ ability to maintain a job and care for their families.” See Civil Rights Div., U.S. Dep’t of Justice, *Investigation of the Ferguson Police Department*, Mar. 4, 2015, pp. 50-51.

⁷¹ Interview with Gary Lewis, Former Director of GAAP. (May 12, 2015).

enforcement adds up to significant police and park safety patrol time each year, funneling time and money away from more serious matters.

Second are court costs. A 2002 report by the San Francisco Legislative Analyst's office found that the "quality of life offenses" cost the Superior court an estimated \$77,900 for quality of life citations in 2000.⁷² The District Attorney's office then spent \$237,493 processing quality of life infractions. When contacted for this report, the Director of the Research and Planning division at the San Francisco Superior Court reported that the Court no longer tracks the processing costs associated with "quality of life" citations. The District Attorney's office does not track these costs either, but with inflation and similar enforcement levels, these costs are certainly higher today. Finally is the cost of incarceration. While the Sheriff does not keep data on the number of those booked primarily due to unpaid quality of life citations, our survey suggests that hundreds of homeless people are processed to clear their citations each year, resulting in tens of thousands of dollars in additional costs to the taxpayers.

The conclusion of the 2002 Legislative Analyst's Report issued to the Board of Supervisors concluded that "San Francisco's current system for processing quality of life law infractions and misdemeanors indicates that the current system provides little incentive for those to pay ticket fines or appear in court and does not uniformly link defendants with social services." Over a decade later, little has changed.

Conclusion

When the recent report from UC Berkeley Law School on *California's New Vagrancy Laws* found San Francisco ranked as having the most anti-homeless laws of any California cities, several pundits protested that just because the city has one of the meanest municipal codes for the poor does not necessarily mean that it enforces as aggressively. Our survey and analysis of city data severely undercuts this notion. Not only does San Francisco have a larger number of anti-homeless laws than many U.S. cities⁷³, it enforces these laws vigorously and, since 2011, increasingly. The result is that the majority of our survey respondents were processed through the criminal justice system in the past year due to citations most often for performing necessary life sustaining activities in public.

The processing of quality of life infractions for homeless people in San Francisco's traffic courts is not a process of justice, but rather a farcical administrative task that neither the courts nor the homeless offender wish to have part in. The citation process does not get people into services, nor does it serve as some benevolent stick to promote people to accept services who otherwise would not. Those who do complete service hours are receiving credit for service they were receiving already. While citations do not help push people into services, they do have the unintended effect of creating legal barriers to obtaining housing and work. In this way, the policy that is meant to push people out of homelessness is actually keeping them homeless.

Despite decades of citing people for "quality of life" offenses, there is no evidence that it has reduced such offenses from being committed, in San Francisco or any US city. Yet, as this study has found, there is plenty of evidence that the citations produce multiple barriers in exiting homelessness and perpetuates poverty at a cost to San Francisco taxpayers.

Recommendations

Abolish Anti-Homeless Laws

- The SFPD claims that it must respond to 911 calls regarding illegal activity and cite those who are committing a crime. Therefore the most effective means to end the practice of citing homeless persons for sitting or sleeping is to abolish such laws. This year a Right to Rest Act Bill was heard in California's legislature which would prohibit the enforcement of anti-homeless laws (see conclusion for more detail). It will be heard again next year. San Francisco's mayor and board of supervisors should publicly support the legislation.

⁷² Elaine Forbes et. al., "[Processing Quality of Life Violations](#)," SF Office of Budget and Legislative Analyst (2002).

⁷³ UC Berkeley Law School Policy Advocacy Clinic, *supra* note 5.

Reform the Broken and Costly Court Process for Infractions

Court Administration and District Attorney Reforms

- Grant amnesty to those who receive “quality of life” tickets and are too poor to pay them, through the powers of the District Attorney. This has been done in the past and can become institutionalized if such laws and enforcement cannot be changed at a legislative level.
- Allow for fees associated with community services to be easily waived, and inform defendants of a clear process to do so.

Stop Issuing Warrants, Arrest, and Suspension of Drivers Licenses for Unpaid Fines

Court Administration and District Attorney Reforms

- Halt the practice of issuing arrest warrants for unpaid fines of “quality of life” offenses.
- End the suspension of driver’s license as a tool of debt collection, particularly for non-traffic offenses.
- Stop sending unpaid “quality of life” tickets to collection agencies.

Improve Information and Accountability on the Impacts and Costs of “Quality of Life” Policing and Citation.

Agency Reforms

- Supervisors should request the Legislative Analyst Office to undertake a study similar to that of the 2002 report on the “Processing ‘Quality of Life’ Violations,” which would reveal the current cost of enforcement and court processing. Currently, the courts and Sheriff, are not tracking the frequency, process, or cost of “quality of life” citations or arrest. The SFPD is now tracking this with a new computer program, but it is not made readily available.
- Require the SFPD to publicly and properly report such findings in their monthly crime reports.

Arrest, Incarceration, and Re-Entry

The United States incarcerates more people than any other country in the world.⁷⁴ Nationwide, most people who go to jail live in extreme poverty before they are arrested: Two-thirds of people in U.S. jails had an income of less than \$12,000 the year prior to arrest.⁷⁵ Upon release from jail or prison, people are often denied housing, employment, and access to social programs, so even people who were housed prior to incarceration can end up homeless.⁷⁶ Because police frequently cite homeless people and target them for arrest, they can end up in jail repeatedly, further removing them from the services and support they need to escape the cycle of homelessness.

A number of studies have found that homelessness and incarceration are “mutual risk factors:” Incarcerated people are between 7 and 11 times more likely to have past experiences of homelessness than the general population, and between 25 to 50% of homeless people nationwide have a history of incarceration.⁷⁷ Our data support the argument that arrest and incarceration are outcomes of the criminalization of homelessness and that homelessness is often a result of incarceration. The two processes together create a cycle of economic exclusion that is hard to escape. The first part of this section reviews how homelessness increases the likelihood of law enforcement contact and incarceration; the second explains how and why incarceration is a pathway to homelessness post-release.

The San Francisco Sheriff’s Department does not keep a record of people’s housing status at booking or upon release from jail. However, the San Francisco biannual point-in-time homeless count began including people in jail who reported that they were homeless in 2011.⁷⁸ In 2011, 317 people who identified as homeless were in jail at the time of the count, while in 2013 this number was 126.⁷⁹ While it is unclear if a single night count at the jail is a reliable method to discern a population trend, the number does provide a general indicator of the proportion of the jail population that is homeless; suggesting that of the roughly 1300 jail inmates on any given night, 10-24% are homeless.

Although on any given night, 3-5% of San Francisco’s homeless population resides in the county jail, 30% of homeless people surveyed in the 2013 Point in Time Count reported having been incarcerated in the past year, of which 22% reported spending more than 5 days in jail.⁸⁰ Both the high and low counts of homeless people in jail exceed the number of those counted in hospitals (123 people) and treatment programs (93 people).⁸¹

The findings of our study illustrate that for people experiencing homelessness in San Francisco, arrests are frequent and viewed as discriminatory and incarceration is common. Both arrests and incarceration can perpetuate homelessness by diminishing the possibilities of exiting extreme poverty.

Among participants in our study, those who spend the most time in public space—people who camp or live on the street—are the most vulnerable to arrest and incarceration. 69% of survey participants who lived on the street and

Key Findings

- 59% of respondents had been incarcerated in San Francisco Jail or California State Prison at some point during their lives.
- 44% of respondents had been incarcerated multiple times.
- Arrests varied significantly by living situation among homeless people: 61% of campers, 69% who lived on the streets, 43% of shelter residents, and 70% of SRO residents had experienced arrest and incarceration.

74 PEW Center on the States, “[One in 100: Behind Bars in America in 2008](#).” (2008).

75 Michelle Alexander, *supra* note 22.

76 Devah Pager. *Marked: Race, Crime, and Finding Work in an Era of Mass Incarceration* (University of Chicago Press, 2007).

77 National Healthcare for the Homeless Council, “Incarceration and Homelessness: A Revolving Door of Risk,” *In Focus: A Quarterly Research Review of the National HCH Council*: Vol. 2, Issue 2 (November 2013).

78 Although the Point in Time Count inevitably undercounts those experiencing homelessness on the streets it is presumably accurate in counting those in institutions.

79 Applied Survey Research, *supra* note 6.

80 *Id.* at 28.

81 *Id.* at 9.

61% of participants who camped in parks had been arrested and incarcerated, compared with 43% of shelter residents. One of the main reasons for this is the sheer frequency of police interaction: homeless people who spend the most time in public space are the most likely to be the targets of anti-homeless enforcement as well as of other types of enforcement.

Police approached 90% of respondents who stayed on the street and camped in parks, compared with 67% of those who stayed in shelters. And those with the lowest incomes are more likely to engage in criminalized informal economic activity in public, simply because they have no other way or place to earn money. Assad, a 30-year-old Black man explains how recycling, his main way of making money, puts him in danger of arrest due to complaint-driven policing:

“In the past, I did recycle when I first hit the Haight ... I made the most money in Golden Gate Park ... Sometimes [police] said stop, sometimes they said let it go ... Some [businesses] didn’t like it, they just didn’t like us going by their businesses and asking for recyclables. They didn’t like seeing the shopping carts.”

Arrest and Incarceration

Being forced to move from public spaces and being given multiple citations was a common occurrence for homeless respondents. In addition, 59% of the survey respondents reported being arrested and incarcerated at some point in their lives.

As discussed in the previous sections, homeless people are more likely to be arrested because of numerous factors. Specifically, homeless people are

- often in poor neighborhoods with higher levels of policing
- caught in personal possession of drugs with greater frequency than those who use drugs in their own homes
- targeted by special anti-homeless and “quality of life” provisions designed to entangle them
- frequently searched and approached due to complaints against their very presence.

SF Jail By the Numbers

10–24%: SF Jail inmates who are homeless on any given night.

30%: Homeless people who spent at least one night in jail in the past year.

44%: “Chronically” homeless people who spent at least one night in jail in the past year.

22%: Homeless people who spent more than five days in jail.

56%: SF jail population that is Black.

85%: SF jail population has not been convicted of a crime.

Source: *Applied Survey Research*, San Francisco’s 2013 Point in Time Count. 2013.

We found that the majority—59%—of survey respondents had experienced incarceration, and that 44% had been incarcerated multiple times, with their most recent incarceration having occurred within the last three years.

While surveyors did not ask respondents about the reasons for their arrests or incarcerations, we can infer from statistics on arrest and incarceration statewide and in San Francisco that the vast majority were for non-violent, poverty-related offenses.⁸² Nearly 6,500 arrests in the state of California are attributable to anti-homeless laws.⁸³ Most homeless respondents to the last point-in-time survey who had been incarcerated reported that they were in jail for five days or less. The short duration of incarceration means that most homeless people who are in jail are there simply because they are too poor to afford bail. The San Francisco Public Defender reports: “85% of the roughly 1,300 inmates in county jail haven’t been convicted of anything. That’s more than 1,000 men and women. They are there not because they have been found guilty, but because they simply cannot afford bail.”⁸⁴

Short stays in jail not only entangle homeless people for longer periods of time due to their poverty, but also effectively un-house a number of people. Miles, a 51-year-old white man who camps, reported the impact of an arrest on his life: “When I got arrested last time, that was when my marriage ended ... They didn’t let me call work to explain (what happened). It took me two and a half, three days to explain to work why I was MIA. I lost my job

82 Community Corrections Partnership Executive Committee, *Three Years of Realignment in San Francisco* (February 2015), p11.

83 UC Berkeley Law School Policy Advocacy Clinic, *supra* note 5.

84 Jeff Adachi, *supra* note 24.

after that... It kicked off my divorce, which was the beginning of the end for me. I lost my house.”

A short period of incarceration can also be traumatic and disruptive, threatening physical and mental health. Z, a 22-year-old Black woman who stays in transitional housing, remembers being arrested and incarcerated after she defended herself against domestic violence.

“Emotionally, I felt so dead inside. You expected me to be a criminal... They took pictures of me when I came in... There was only a nurse with a Q-Tip... I’m in a holding cell. I’m locked up at this point, being treated like a dog... They kept me for four days, which included my birthday... (Later) I held up a sign reading ‘A citizen was falsely arrested. Zero investigation was done. I wonder what a civil rights lawyer would have thought about it?’ ... I just experienced a PTSD moment in a domestic violence situation, and then I’m in jail like I’m a criminal.”

In effect, the San Francisco jail is warehousing poor and homeless people. The vast majority of people in jail in San Francisco have not been found guilty of a crime. High bail amounts ensure that homeless people will remain in jail for minor offenses before they are even tried, often unable to finance the lowest \$500 bond in bail, while wealthy people accused of more serious offenses are released. The use of bail exacerbates racial inequalities: Most people who are in the San Francisco jail because they’re too poor to afford bail are people of color, like Z.⁸⁵ Because they cannot afford bail, the county incarcerates them at a cost of \$173 per day.⁸⁶

Re-Entry: Homeless by Criminalization

While proponents of a “get tough” strategy believe that contact with law enforcement pushes homeless people off the streets and into services, the data indicate that the opposite is true: Criminalization perpetuates extreme poverty. Two thirds of respondents who reported being incarcerated were homeless at the time of arrest. Of these, fully 92% returned to homelessness after their release. However, one third of respondents reported being housed at the time of their last incarceration. Of this group, a significant portion, 34%, reported becoming homeless at the time of their release. In other words, while most survey participants’ housing status did not change as a result of incarceration, they were far more likely to end up homeless or lose their housing than they were to end up housed upon release.

According to the Re-entry Council’s Access and Connections Subcommittee, people who were poor prior to incarceration often leave jail with nowhere to go, and no way to access the social networks that supported them before arrest.⁸⁷ The penal system rarely provides opportunities to connect with services or resources that can ameliorate poverty. Only 19% of survey participants who spent time in jail or prison were offered services upon release, compared to 81% who were offered nothing. Furthermore, in most cases, the “services” participants identified were minimal, and included things like “a bus ticket.” To make matters worse, incarceration can cause people to *lose* their benefits such as General Assistance or Social Security, or to lose their health insurance.

Not only do homeless people who are incarcerated often lose their benefits, and only source of income, but incarceration also creates further barriers to getting a job, a key determinant of housing access on the private market. Most employers conduct background checks, and discriminate against prospective employees who have a criminal record.⁸⁸ Even in states that have banned background checks, information about criminal history is often easily accessible online. One year after release, 60% of formerly incarcerated people remain unemployed.⁸⁹ Among those

85 *Id.*

86 Lawyers Committee on Civil Rights, *supra* note 64, at 20. Chris Roberts, “San Francisco Pays Top Dollar to House County Jail Inmates,” *SF Examiner*, Mar 31, 2013.

87 Re-entry Council of the City and County of San Francisco Subcommittee on Assessment and Connections. “Insufficient Access to Shelter as a Major Barrier to Health and Well-Being for the Re-entry Population.” Draft Presentation, March 2015.

88 Devah Pager, *supra* note 75.; The Sentencing Project, “Americans with Criminal Records” (2013); Rebecca Vallas and Sharon Dietrich, “One Strike and You’re Out: How we can Eliminate Barriers to Economic Security and Mobility for People with Criminal Records” (Center for American Progress, 2014); Society for Human Resource Management, “Background Checking: The Use of Criminal Background Checks in Hiring Decisions” (2012).

89 The Sentencing Project, “Americans with Criminal Records” (2013); Bruce Western and Becky Petit, “Collateral Costs: Incarceration

The Cycle of Citation, Arrest, and Incarceration: Assad's Story

Assad, a 30-year-old Black man, estimates that he has been arrested about fifteen times. The last time he was in jail was when his citation for an open container went to warrant: "They took me there, they basically searched me and told me to take off my clothes and put on their clothes, and they put me in a jail cell. That was for an open container, and that was for a couple of days that I remember." Assad still has outstanding warrants related to citations. "It's caused trouble and I've yet to deal with it. I haven't got rid of them all and that's going to be a delay on my situation with housing." He explains: "You basically have to take care of the tickets you got from the police before you can get housing. I don't know, I guess that's a law that they want you to be clean."

His incarceration also "kind of slowed benefits down," Assad says. "I was denied maybe three times for SSI." Of the cycle of citation and arrest, he says: "It just delays what I'm trying to do what is good for me. It's nonsense to me."

In addition to delaying his benefits and housing applications, anti-homeless enforcement makes it risky for Assad to earn money by recycling, and nearly impossible for him to earn money in the formal economy. "Being locked up and [employers] finding out makes it harder on you to get work because they don't trust you and they think you're a criminal, and that's how you end up on streets and you just live it out until someone comes around and helps you."

who are able to secure post-release employment, wages are an average of 40% lower than wages of someone with the same level of education who has never been incarcerated. This earnings gap persists throughout the formerly incarcerated person's working life.⁹⁰ Furthermore, a criminal record can disqualify one for various housing benefits. It is therefore not surprising that those who have been incarcerated, whether homeless at the time of arrest or not, are at high risk of homelessness upon release.

Supervision or Support?

As of February 2015, 13% percent of people on probation in San Francisco reported that they were homeless, and an additional 12% provided a non-residential address, including a mailing address or an unknown address. While 75% of probationers provided a residential address, there is no way of knowing how many are only temporarily or marginally housed with family or friends.⁹¹ In other words, it is likely that more than 25% of people on probation in San Francisco are currently without stable housing.

Those who end up homeless upon release from incarceration may struggle to meet the requirements of their probation and parole, for example charging electronic monitoring devices with limited access to electrical outlets or indoor space, showing up on time to appointments, or abstaining from substance use in a chaotic and stressful environment, and with no access to housing or drug treatment. Based on estimates by the San Francisco Controller's Office, probation or parole violations will result in 1301 new people jailed per year, and increase the jail population by an average of 130 inmates per day.⁹²

Janetta Johnson, Program Director of the Transgender Intersex Justice Project of San Francisco explains: "I know a couple of people who were homeless after getting out of jail. They don't have a place to stay, so it makes it difficult to stay clean [off of drugs]. I believe they really, really want to, but you can't really walk the streets and stay clean." Johnson recommends more re-entry support, especially housing and culturally appropriate drug treatment, and medical and mental health care.

[tion's Effects on Economic Mobility.](#) (Pew Charitable Trusts, 2010).

⁹⁰ *Id.*

⁹¹ Correspondence with Leah Rothstein, Adult Probation Department (May 27, 2015).

⁹² City and County of SF Office of the Controller, "County Jail Needs Assessment Hall of Justice Replacement Jail," (August 15, 2013) p18-20.

Survey respondents on probation or parole were overwhelmingly disconnected not only from housing, but also from supportive services and formal employment. Of the 45 survey respondents in our own study who were on probation or parole at the time of the survey, 49% reported having a mental or physical disability but only 29% accessed SSI or SSDI. 38% participated in a workfare program through General Assistance or Cal Works. Only three of 45 respondents who reported being on probation or parole were earning any money in the formal economy. In other words, penal supervision did not help participants with disabilities to navigate government agencies in order to secure legal sources of income; many are barred from government assistance due to past convictions, and even those who are eligible for government assistance often struggle to access benefits upon release. Since many government programs require “re-determination” of eligibility, people who lose benefits due to incarceration remain without access to income or medical care upon release.

In 2012, the Adult Probation Department initiated the “New Roads” program, providing rental subsidies for a total of 31 homeless probation clients during a two-year period. Another program of the Human Services Agency and Adult Probation, Cameo House, provides transitional housing for pregnant and parenting women as an alternative to jail.⁹³ While these programs provide crucial resources for a small number of people on probation, they are not available to the majority of probation clients, or to people released from jail who are not on probation. The gap between the need for and availability of housing resources is stark.

Existing Housing Resources for the Re-entry Population

Services of Adult Probation	Description	Capacity
Emergency Stabilization Units	Homeless and extremely unstable clients are referred to short-term stabilization rooms in partnership with Department of Public Health Housing and Urban Health	There are 46 stabilization units. Clients can stay 90 days with potential for extension if they are supervision and program compliant. A forthcoming stabilization housing project will allow stays of up to a year. Staff don’t currently know the incidence of homelessness upon exit but are requesting this information from the service provider. As of 6/2, there were 8 rooms vacant and/or in the process of turning over to a new client.
Transitional housing	Partnerships with community based providers provide clients access to transitional housing, which combines short-term housing with assistance in identifying permanent housing options in San Francisco.	There are up to 24 transitional housing units. There are currently no vacancies.
Transitional Rental Subsidies	Work-ready or employed clients may be referred to the New Roads Rental Subsidy Program, operated by Tenderloin Housing Clinic, for partial rental subsidies for up to one year.	Up to 15 rental subsidies at any point in time. Rental subsidies last for up to two years or until a client’s probation term expires. All 15 subsidies are currently being used; There are currently no subsidies available.

Source: Partial table reproduced from Three Years of Realignment in San Francisco: February 2015; additional information courtesy of Leah Rothstien, Adult Probation Department.

Fiscal Impacts of the Cycle of Incarceration and Homelessness

In 2013, San Francisco spent an estimated \$173 each day for each county jail inmate.⁹⁴ In contrast, permanent supportive housing operated by San Francisco’s Human Services Agency costs just \$31 per person per day.⁹⁵ Clearly, housing homeless people is more cost-effective than jailing them. Despite this fact, city officials have proposed to

93 SF Human Services Agency, “[San Francisco Ten Year Plan to End Chronic Homelessness Anniversary Report: Covering 2004-2014](#)” (2014).

94 Lawyers Committee for Civil Rights, *supra* note 64, at 20.

95 SF Office of Budget and Legislative Analyst, “[Analysis of Supportive Housing Programs](#),” (December 15, 2014).

Incarceration and homelessness



203 homeless or formerly homeless respondents (59%) reported having been incarcerated in SF County Jail or CA State Prison.

■ Formerly incarcerated (59%)
 ■ Not incarcerated (41%)

Were services offered upon release from jail/prison?

19% Yes
81% No



■ Yes
 ■ No

Services offered post-incarceration

Types of "services" offered



Housing wait list



Bus ticket



Pamphlet



Shelter bed

While proponents of a "get tough" strategy believe that contact with law enforcement pushes homeless people off of the streets and into services, the data show that the opposite is true:

Criminalization perpetuates extreme poverty.

of those homeless at the time of arrest

92%

returned to homelessness upon release from jail or prison.



■ housed
 ■ homeless

invest heavily in law enforcement rather than in increasing access to housing and health services.

With the passage of Proposition 47, San Francisco's jail population declined dramatically.⁹⁶ The current jail is at only 57% capacity.⁹⁷ However, the decline in San Francisco's jail population is threatened by proposals to construct a \$278,000,000 new jail⁹⁸ and spend \$7,800,000 of San Francisco's general fund for each new academy class of fifty police officers.⁹⁹ The Mayor's office proposes four classes per year for the next two years: \$31,200,000 per year or \$62.4 million.¹⁰⁰ Based on our findings about the close relationship between homelessness and incarceration, this increased investment will exacerbate homelessness in San Francisco, especially among people of color who are incarcerated at disproportionate rates.

Some policymakers and members of the public mistakenly believe that law enforcement responses are an appropriate way to deal with homelessness, or that short periods of incarceration might motivate homeless people to get off the street. The results of this study show that criminalization not only threatens homeless people's well-being, but also makes it close to impossible to exit homelessness. Citations, warrants, court-imposed debt, and even a short period of incarceration can have devastating long-term effects on future earnings and ability to secure housing. Incarceration does not discourage but actually perpetuates homelessness.

A New Policy Approach

One way to prevent both homelessness and incarceration of homeless people with disabilities is through provision of permanent supportive housing that offers voluntary harm reduction-based services. A number of studies have shown that increased investment in permanent supportive housing reduces costs related to hospitalization and incarceration—both expensive ways to respond to extreme poverty. In 2001, San Francisco's Budget and Legislative Analyst found that supportive housing resulted in significant net cost savings by reducing public costs related to incarcerating and providing emergency services for chronically homeless San Franciscans.¹⁰¹ In New York, a controlled study found that provision of supportive housing to homeless people with psychiatric disabilities resulted in less spending on the incarceration of members of this group.¹⁰² Housing can break the cycle of homelessness

“We have had many clients who lost their SSI due to incarceration. In these situations, they would have to reapply all over again...SSI clients have no income and usually have to rely on GA after release. However, due to their disability, they are often unable to comply with GA requirements, and have great difficulties getting back on SSI. The result is no income and homelessness. I remember in one case, it took the client almost half a year to get to us so we could help him apply for SSI; he was so mentally disabled he wasn't able to apply for SSI and seek help, and had been living on the streets with no income. In worse cases, people are off SSI for years, never able to get back on because they are out of medical care and have no medical records to support their claims. Ideally, there shouldn't be a new medical determination when a person is incarcerated for 12 months or more. It doesn't make any sense, as if prison can improve someone's health.”

—Andy Chu, Esq., Managing Legal Director of Positive Resource Center's Benefits Counseling Program.

96 Community Corrections Partnerships Executive Committee, *supra* note 82.

97 *Id.*

98 SF DPW Hall of Justice Replacement Project (last accessed June 9, 2015): www.sfdpw.org/index.aspx?page=1818

99 Correspondence with Amanda Guma, Senior Manager, Harvey Rose Associates, LLC.

100 SF Office of Budget and Legislative Analyst, *supra* note 95.

101 *Id.*

102 Dennis Culhane et al., *The New York/New York Agreement Cost Study: The Impact of Supportive Housing on Services Use for Homeless Mentally Ill Individuals* (New York: Corporation for Supportive Housing, 2001), p. 4.

The Cycle of Homelessness and Re-Incarceration: Bill's story

Bill, a 40-year-old white man, estimates that he has been arrested over 60 times in San Francisco. "That includes three prison terms and working violations on the prison terms, going back to prison for a technical violation: Not reporting [to my Probation or Parole Officer], or not reporting on time, or having dirty urine." When Bill finally completed his probation, he was unable to find housing or employment with a criminal record. Now, Bill makes his money recycling cans and doing odd jobs when he can. None of his informal jobs pay enough for him to have anything close to stable housing, so he waits in line at soup kitchens and sleeps outdoors or occasionally in friends' SRO hotel rooms.

Bill said: "It pretty much ruined my life altogether to tell you the truth, just getting trapped in that system. Some of the best years of your life get eaten up by that criminal justice system. I don't know how it would have gone had it gone the other way. You know, what opportunities I missed because of that ... Just the people you meet and the friends that you make, versus the friends that you don't make. The sort of opportunities that would open up to you versus the sort of opportunities that you don't get ... It definitely messes with your self-esteem."

Bill's prolonged contact with law enforcement officials, prisons and jails has deepened his poverty. With no re-entry support, Bill continues to live and work on the street, where he is likely to come into contact with police and be pulled back into the vicious cycle of homelessness and incarceration.

(Bill was interviewed as part of a separate but related study.)

and incarceration: people who have stable housing are less likely to end up in jail; and people who have never been incarcerated are less likely to become homeless. Nonetheless, city officials have proposed to invest heavily in law enforcement rather than in adequate access to housing and health services.

Through this year's budget process, San Francisco has the opportunity to choose whether it wants to follow the national trend of criminalizing poor people, especially poor people of color, or invest in racial and economic justice. San Francisco has historically relied on policing as its primary response to poverty. With adequate resources allocated to voluntary mental health services, deeply affordable housing, and free residential drug treatment, San Francisco could stop the mass incarceration of homeless people.

Recommendations and Alternatives

End Poverty-Related Arrests

SFPD and Court Administration Reforms

- End the issuance of warrants related to anti-homeless citations.
- End arrests resulting from the accrual of anti-homeless citations.

Expand Pre-Arrest and Post-Arrest Diversion

SFPD and SF Sheriff Reforms

- Arrest does not have to lead to jail, especially in cases of warrants issued for unpaid citations or misdemeanors related to a person's homeless status or "Quality of Life". Releasing, rather than detaining, homeless people who are arrested, will reduce the negative impacts of incarceration.

Abolish Bail and End Pre-trial Incarceration For Homeless Status and Quality of Life Offenses

Legislative and Court Administration Reforms

- Most people in jail in San Francisco have not been found guilty of a crime. High bail amounts ensure that

homeless people will remain in jail for minor offenses before they are even tried, while wealthy people accused of more serious offenses are released. Expanding pre-trial release for homeless people who are charged with homelessness related offense, such as sleeping or sitting, as well as “Quality of Life” offenses such as trespassing, would prevent San Francisco jail from continuing to disproportionately incarcerate homeless people for being poor.

- Pre-trial incarceration violates poor people’s human rights, and as homeless people are experiencing the extremest form of poverty, they are hit especially hard. Defendants who have been incarcerated pre-trial due to inability to pay are often pressured to plead guilty, because this is the fastest way out of jail. Faced with the prospect of losing a job or leaving children unattended while incarcerated, many poor and homeless people choose to plead guilty, just so that they can be released. Ending pre-trial incarceration for homeless status and “Quality of Life” offenses would relieve the pressure to plead guilty.

Conduct Needs Assessments and Track Homelessness Upon Release

Agency Reforms

- San Francisco should ensure that the number of people who are homeless when they are released from jail is available to the public.
- The Sheriff’s department should conduct a needs assessment upon release from incarceration and HSA should ensure the Sheriff’s Department has a means to access late night vacant shelter beds upon exit.
- Most existing supportive housing programs for people who are homeless upon release from SF jail are currently full. Increase the capacity of supportive housing programs for the re-entry population.

End Incarceration Related to Violations of Probation Terms

Legislative and Agency Reforms

- Many homeless people return to jail for failing to meet probation and parole requirements that are designed for housed people.
- Officials should create alternatives so that homeless people are not re-incarcerated simply for failing to meet requirements of probation and parole, many of which pose insurmountable challenges in the absence of re-entry support.

Implement Amnesty for Court-Imposed Debt

- Court-imposed debt creates a barrier to exiting homelessness and poverty
- Ban the use of private collections agencies for the unpaid debts of people below the San Francisco poverty line.
- Implement debt-forgiveness and payment plans for poor and homeless people in the re-entry population to prevent criminal justice debt from pushing people into homelessness.

Allocate Jail Savings to Solutions to Homelessness

SF Sheriff Reforms

- Savings on operations and maintenance of closed facilities and decreasing jail space should be invested in long-term and supportive housing to reduce recidivism.

Implement Transformative Justice and Restorative Justice At All City Levels

Legislative, Agency Specific, and Court Administration Reforms and Citizen Action Steps

- Transformative Justice and Restorative Justice are approaches that are grounded in healing and repairing rela-

tionships when harm happens. They are also approaches that address the needs of survivors, bystanders, and others who may be impacted by the harm, as well as addressing the root causes of the harm.

- There are many successful restorative models to draw from and, in some international cases, entire municipalities that have adopted Transformative Justice and Restorative Justice as alternatives to the criminal justice system.

Intersections of Disadvantage

Nationwide and in San Francisco, people of color, gender non-conforming people, and people with mental illness experience homelessness at much higher rates than other groups.¹⁰³ A number of studies indicate that members of these groups are also the targets of discriminatory policing practices.¹⁰⁴ While the criminalization of homelessness affects the overwhelming majority of study participants, their experiences with law enforcement depend not only on their homeless status but also on their race, gender identity, and mental health. Law enforcement interactions affected study participants differently according to gender and race. Our study results show how the criminalization of homelessness perpetuates racial inequality, increases health risks faced by those suffering from mental illness, and heightens vulnerability to gender-based violence.

Race and the criminalization of homelessness

San Francisco is becoming increasingly white, and people of color are being priced out of the city. Black and Latino San Franciscans who remain are more likely to live in poverty than white San Franciscans. As the city's Area Median Income soars, extreme poverty deepens.¹⁰⁵ Black people are 6% of San Francisco's population¹⁰⁶, but represent between 24-39% of homeless people in the city, and 56% of people incarcerated in San Francisco jail.¹⁰⁷ San Francisco's Black population has decreased by 50% since 1970, at a faster rate than that of any other U.S. city.¹⁰⁸ This is due in large part to redevelopment policies enacted in the '60s and '70s that drove Black people out of their homes, and contemporary "developer-driven" policies that prioritize profit over the preservation of affordable housing.¹⁰⁹ Like Black San Franciscans, Latinos are over-represented in the homeless population. Latinos are 15 percent of the city's population, 26% of homeless people counted in the city's last point in time count, and 13 percent of the San Francisco jail population¹¹⁰. In contrast, whites are 54% of the general population of San Francisco, 22% of the jail population, and 29% of homeless people counted in the last point-in-time survey.¹¹¹

Not only are Blacks and Latinos disproportionately represented in the homeless population, they also experienced police interactions, citation, arrest, and incarceration at the highest rates of all our homeless respondents. Black

Key Findings

- People of color were approached more frequently by police: 81% of Black respondents and 84% of Latino, Native American and other respondents of color had been approached by police, compared to 77% of white respondents and 69% of Asian respondents.
- Black respondents reported the highest rate of past incarceration: 74% of Black respondents had been incarcerated, compared to 51% of white respondents.
- Forced displacement from public space disproportionately threatened the safety of gender non-conforming people who participated in this study: 59% of gender non-conforming participants felt less safe after they were forced to move.
- Women reported different safety risks related to displacement from public space, including vulnerability to sexual violence in an unfamiliar location.
- Those who identified as mentally disabled reported higher rates of being approached by the police (+10%) and higher rates of failure to address citations (+10%).

103 Jaime M. Grant et al. *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey* (National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011); Nazgol Gandnoosh, "Black Lives Matter: Eliminating Racial Inequity in the Justice System," *The Sentencing Project* (2015).

104 Jaime M. Grant et al., *supra* note 103. Graham Roberston, Richard Pearson, and Robert Gibb. "The entry of mentally disordered people to the criminal justice system." *The British Journal of Psychiatry* 169, no. 2 (1996): 172-180.

105 City and County of SF Office of the Controller, *supra* note 92.

106 *Id.*

107 *Id.*

108 Leslie Fulbright, "[Black Population Deserting SF, Study Says](#)," *The San Francisco Chronicle*, August 10, 2008.

109 *Id.*

110 City and County of SF Office of the Controller, *supra* note 92.

111 City and County of SF Office of the Controller, *supra* note 92.; United States Census Bureau, "[State and County Quick Facts, San Francisco, California](#)."

survey participants were more likely to be cited, arrested and incarcerated than survey participants of any other racial group. The overwhelming majority of Black survey participants were approached by police (81%), searched (62%), forced to move (67%), cited (76%) and arrested and incarcerated (74%). Replication of this study would likely again demonstrate that across the board, 1) homeless respondents are much more likely to be arrested than people who are housed and 2) Black men and Black transgender women experienced the highest rates of arrest and incarceration.

The Relationship Between Race and Law Enforcement Interactions

	Black N=129	Other Person of Color N = 105	White N = 112	Asian N = 18
Approached	81%	84%	77%	69%
Forced to Move	67%	75%	72%	69%
Cited	76%	70%	66%	77%
Searched	62%	55%	52%	54%
Property Taken	40%	42%	36%	50%
Incarcerated	74%	53%	51%	54%
Probation or Parole	24%	20%	17%	14%

Racial categories are not mutually exclusive; participants could select all that applied.

Of all the different categories of disadvantage reviewed in this section, race was most closely tied to frequency of law enforcement interactions, especially incarceration. These findings on the frequency of experiences with law enforcement are also matched by the perceptions of those on the street. As Joseph, a 68-year-old Black man interviewed for the study explained, “Asians, Blacks, Latinos and Chicanos—I feel [police] target them the most... I want to think it’s something like a written thing, that if you are any of the people I just named, then you are doing something wrong for that matter. They automatically come up with that mindset, thinking ‘You can’t be doing anything right, you got to be doing something wrong. There’s too many of you together, so there’s got to be something going on that’s not right.”

A national survey by the Western Regional Advocacy Project (WRAP) found that homeless people widely perceived their race, gender and disabilities as factors in being given citations; 77% reported that they believed they were ticketed because of their economic status, but 35% reported it was also or solely because of their race, 24% their gender, and 24% their disability.¹¹²

Mass incarceration not only deepens poverty, it also perpetuates racial inequality: Nationwide, 11% of 25-29 year-old Black men are incarcerated on any given day,¹¹³ and one-third of black men in their twenties are under correctional supervision.¹¹⁴ Black men are over six times more likely to be incarcerated than white men, and Latino men are 2.5 times more likely to be incarcerated than white men.¹¹⁵ San Francisco is no exception to the national trend of mass incarceration of poor people of color: 56% of people incarcerated in the San Francisco jails are Black, and 84% of people in San Francisco jails have not been convicted of any crime—they are in jail simply because they are unable to afford bail.¹¹⁶

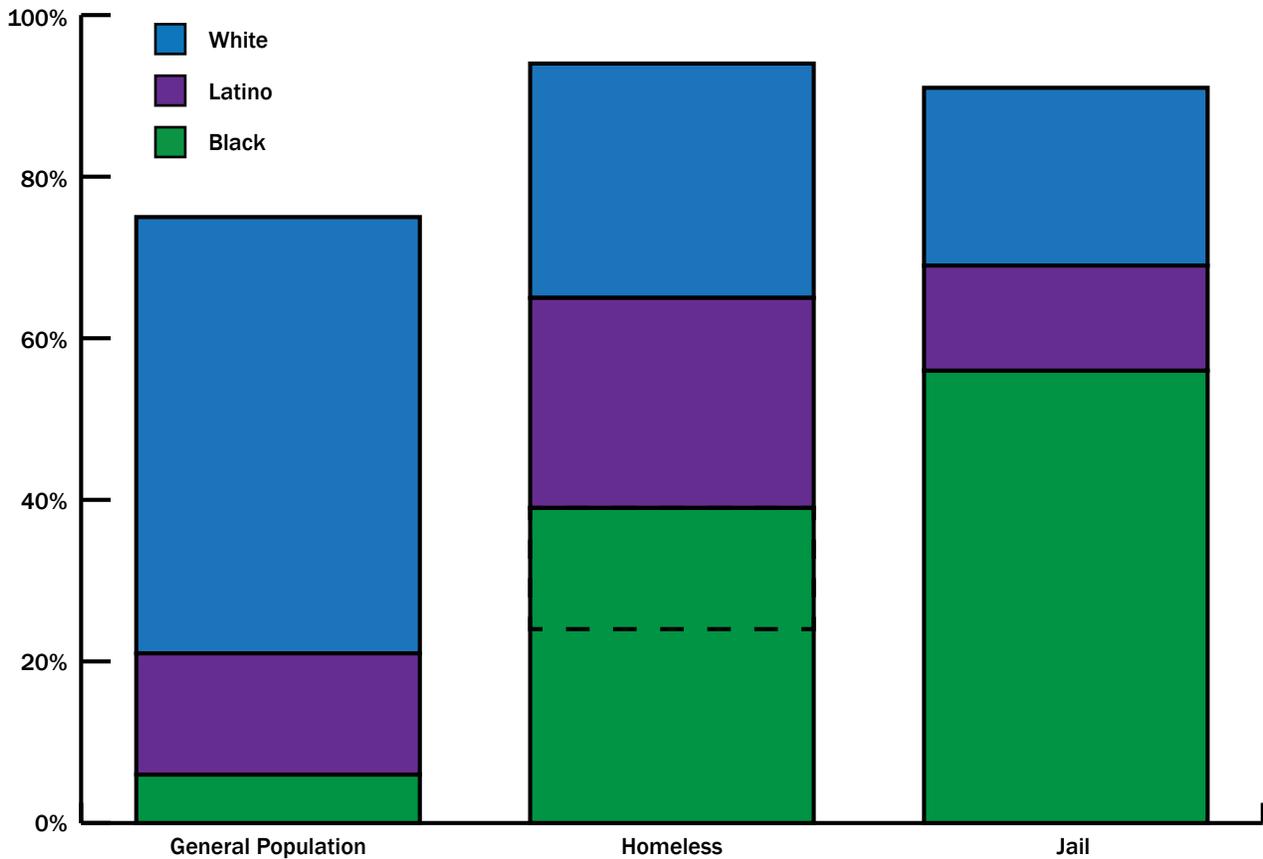
112 Western Regional Advocacy Project, *supra* note 39.

113 PEW Center on the States, *supra* note 74.

114 Michael Tonry and Matthew Melewski, “The Malign Effects of Drug and Crime Control Policies on Black Americans.” *Crime and Justice* 31: 1 (2008). 1-44.

115 Analysis of Bureau of Justice Statistics Data by The Sentencing Project, “[Trends in U.S. Corrections](#)” (2013); E. Anne Carson and Daniela Golinelli, “Prisoners in 2012” (Bureau of Justice Statistics, 2013).

116 City and County of SF Office of the Controller, *supra* note 92; Jeff Adachi, *supra* note 24.



Homeless population, Jail Population, and General Population by Race

The most dramatic disparities in rates of arrest and incarceration in our sample are between Black and white survey participants: 77% of Black men (N=97) and 57% of white men (N=78) who participated in our survey had been arrested and incarcerated at some point in their lives.

The discriminatory incarceration of Black San Franciscans goes unquestioned by many city officials: The city controller’s office uncritically states that the San Francisco jail population will increase in direct proportion to increase in the number of African Americans in San Francisco. The disproportionate incarceration of Black people in San Francisco is so taken-for-granted that the Controller’s Office assumes a reciprocal relationship between San Francisco’s Black population and the City’s jail population:

“The African American population in San Francisco decreased by 18 percent (59,461 to 48,870) between 2000 and 2010, and the DOF projects a continued decline through 2050 to 34,101. These population changes are relevant because, as mentioned previously, adults age 18 to 35 and African Americans are disproportionately represented in the jail population. A decline in these populations could have a downward impact on the jail population into the future.”¹¹⁷

“I was at Civic Center where the fountains were. Me and my friend were sitting there and they arrested me. They asked me my name, then one cop, a white cop, was being racial. He asked me, ‘What hell are you doing in my country?’”

—Assad, 31-year-old Black & Middle Eastern man

This statement acknowledges San Francisco’s policy of massive incarceration of Black San Franciscans—and then normalizes it.

Rather than questioning racist policies that result in the hugely disproportionate number of Black people behind bars in San Francisco, city officials take for granted that a large proportion of the city’s Black residents have always

¹¹⁷ *Id.*

been, and will always be, in jail. Officials assume that Black San Franciscans will either be locked up or priced out of the city. It is likely that such assumptions—by police officers as well as court personnel and elected officials—both demonstrate and result in anti-Black discrimination. This bias helps to explain the extremely high numbers of Black homeless respondents to our survey who have been arrested and incarcerated.

Gender, sexual orientation and the criminalization of homelessness

San Francisco’s last point-in-time count found more homeless men than women. 69% of homeless people counted in San Francisco’s last point-in-time count were men; 27% were women, and 3% were transgender.¹¹⁸ 29% of respondents to San Francisco’s last point-in-time survey identified as lesbian, gay, bisexual, or transgender, compared to 15% of San Francisco’s general population. LGBT respondents were more likely to have had “frequent episodes” of homelessness in the past year.¹¹⁹ Groups that are over-represented in the homeless population are the most vulnerable to policing in public space.

Women who participated in our study were arrested and incarcerated at much higher rates than women in the general population: While only 1 in 56 women (1 in 19 Black women and 1 in 118 white women) will be incarcerated in their lifetimes,¹²⁰ 64% of Black women (N = 22) and 45% of white women (N = 22) who participated in our survey had been incarcerated. While our sample is not representative of the homeless population and results are not generalizable, the data show a strong relationship between race, homelessness and incarceration for our participants.

Compared to men, women who participated in this study reported lower frequencies of search, citation and incarceration. However, the experience of being searched, cited, and displaced was qualitatively different, and often violent, for many women and gender non-conforming participants. When police or other city officials forced homeless survey participants to move, they most often moved only a short distance or temporarily. While most survey participants felt the same after moving to a new location, a large number also felt “less safe.” This is because moving from a familiar location to an unfamiliar location often increases vulnerability to violence. Gender non-conforming people most frequently reported feeling “less safe” after city officials forced them to move to a new location. Whereas 30% of survey participants overall reported feeling less safe when being forced to move, 59% of gender non-conforming participants felt less safe after they were forced to move.

Many women and gender non-conforming people told interviewers that they felt more vulnerable sleeping outdoors after being forced to move from a familiar location. Sindi, a 57-year-old white transgender woman, explained: “You could sleep with one eye open and be safe. But there’s some of us who can’t sleep like that... Night is when the predators come out.” Although we did not ask about experiences of sexual violence, two women participants told interviewers that they were raped when they ended up in an unfamiliar location after police forced them to move.

Trans people and the criminalization of homelessness

Nationally, transgender people and especially transgender women of color, experience homelessness at higher rates than other groups. This is due to pervasive housing and employment discrimination, and family rejection. Trans people are an estimated four times more likely to have a household income below \$10,000 than the general population. 19% of participants in a national survey of 6,450 transgender people said they became homeless as a result of anti-transgender bias or discrimination and eleven percent reported that they had been evicted due to their gender identity.¹²¹ One out of five transgender Californians in a separate survey experienced homelessness after they first identified as transgender.¹²² The rate of homelessness among trans people is estimated to be over 2.5 times higher than the lifetime rate of homelessness in the general population (7.4%). Black transgender and

118 This is likely an undercount. See Mona Chalabi “[Why We Don’t Know the Size of the Transgender Population](#),” *FiveThirtyEight*, July 29, 2014.

119 Applied Survey Research, *supra* note 6.

120 The Sentencing Project, “[Incarcerated Women Factsheet](#),” (September, 2012).

121 Jaime M. Grant et al., *supra* note 103.

122 Transgender Law Center. *The State of Transgender California* (2008).

gender non-conforming people reported that they were *currently* homeless at the highest rate (13%), compared to other racial groups. Many gender non-conforming people also reported being marginally housed: 26% of all trans respondents, and 48% of Black trans respondents in the national survey had experienced housing instability during the past year.¹²³

With nowhere to go and a high likelihood of encountering anti-trans harassment or violence, trans people who end up on the street are likely to interact with police in public space. Sixteen percent of respondents to the National Transgender Discrimination Survey spent time in jail or prison “for any reason,” and seven percent of transgender respondents had been arrested and incarcerated “strictly due to bias of police officers on the basis of gender identity/expression.” 47% of Black trans respondents to the national survey and 30% of Native American respondents reported past incarceration, along with 21% of all trans women and 10% of trans men who participated in the survey. These rates of incarceration greatly exceed those of other demographic groups. Trans people are often mis-gendered in jails and prisons, so there is no official source of data on the number of transgender people who are incarcerated. However, the results of this national survey indicate that transgender people are particularly vulnerable to getting caught in a cycle of homelessness and incarceration.

Transgender participants in our Coalition on Homelessness survey told interviewers that they felt law enforcement targeted them due to their gender identity, their status as homeless or marginally housed, and—for trans women of color—their race. Beti, a 75-year-old transgender man said: “Being gay and identifying as trans affects me greatly. When I interact with police, they automatically address the situation, ‘Man up. Take care of your own problem ...’ They don’t treat me as much as a second class citizen as not a citizen at all... an alien.” Sindi, a 57-year-old white transgender woman explained: “Cops harass me. I think it’s none of their business, but they want to pull up and harass me, because I’m transgender... Being poor, they treat you with no respect at all, because they think you have no human rights at all. I had more contact with cops after I became homeless.”

People of color and gender non-conforming people are over-represented in the homeless population. Homeless people of color are disproportionately disadvantaged by the use of bail, court-imposed debt, and unavoidable probation violations due to homeless status.

Respondents who were members of these groups reported frequent and negative interactions with police. In order to mitigate these effects, we have included recommendations at the end of this section.

Mental Illness and the Criminalization of Homelessness¹²⁴

People with mental health issues are dramatically overrepresented within the homeless population. Currently, 20-25% of those who lack stable shelter have a current or past diagnosed mental illness (National Coalition for the Homeless). This statistic reflects both the failure of the nation’s decimated social safety net to house the most poor and vulnerable in our society and twenty years of dramatic cuts to public mental health funding. Between 2009 and 2012 alone, states have cut over 1.6 billion dollars from their mental health budgets. In California this cut accounted for over 21% of all mental health funding¹²⁵. Today, emergency rooms, homeless shelters, and jails have been forced to fill in the gaps for California’s growing homeless population.

According to the most recent Point in Time Count (2013), more than one in three respondents (37%) reported having a severe mental health condition and 20% reported mental health conditions as a barrier to employment and primary cause of their homelessness. In this study’s survey 42% of respondents identified as having a mental disability. This is more than double the rates of self-identified mental health disability in the general population, which hovers around 18%.¹²⁶

123 Jaime M. Grant et al., *supra* note 103.

124 This section was researched and authored by Tony Sparks, PhD.

125 Ron Honberg, Angela Kimball, Sita Diehl, Laura Usher and Mike Fitzpatrick. *State Mental Health Cuts: The Continuing Crisis*. (National Alliance for Mental Illness: 2011).

126 Matthew W. Brault. *Americans with Disabilities: 2010*. (US Census Bureau, 2010).

As both a potential ‘disorder’ and arguably the most visible of the visibly poor, those with mental illness and few financial resources are often the targets of ‘quality of life’ policing. As many have illustrated, unchecked symptoms of mental illness may present to the police officer (or those summoning the police) as the very types of disorderly behaviors, such as disorderly conduct or public intoxication, that ‘quality of life’ policing seeks to quell.¹²⁷

Survey Findings

Thus, it is not surprising that the San Francisco Coalition on Homelessness study found that 85% of individuals who indicated that they had a mental disability reported being approached by the police in the past year (11% higher than the already astronomical 74% reported by all respondents). Some might argue that these police interactions present opportunities for police to engage with and offer services to, those they approach. Yet, only 11% were offered services of any kind and no survey respondents were offered mental health specific services.

The lack of mental health referrals may be a byproduct of circumstances. Perhaps the approaching officer wasn’t aware of the disability or the disability wasn’t an obvious issue at the time of contact. These possibilities however, obfuscate a much deeper problem. Even in the unlikely scenario that the person stopped was displaying obvious symptoms of mental distress and the officer was properly trained to recognize those symptoms, there would be few options available to that officer.¹²⁸

In the absence of services, a likely outcome is that the individual will simply be asked to “move along.” Indeed, 70% of survey respondents had been forced to move from a public space. More disturbing than the rate of forced removal, was the locations from which people were removed. Nearly 70% (69.3) percent of those living with a mental disability reported being removed from the Tenderloin, SOMA, Mission, or Downtown neighborhoods of San Francisco. Not only do these neighborhoods account for the vast majority of the city’s homeless services, these four neighborhoods account for over 90% of all housing and services for people with mental illness. The common act of forced removal is not only removing people from their homes, but from the very services that may be necessary for the maintenance of their health and well-being.

All too often however, with too few mental health services available, jail becomes the facility of first and last resort¹²⁹. In these cases, the presence of anti-homeless legislation and exclusion orders that allow officers to temporarily banish individuals from certain areas, enable the arrest and detention of an individual in the absence of any serious crime being committed.¹³⁰ However, arrest and incarceration do not generally occur at the point of initial police contact. Rather, the data show that this contact, mostly initiated in absence of any crime being committed, begins a process of criminalization of which incarceration is only a part.

The Road From “Crazy” to Criminal

When experts and advocates discuss the criminalization of homeless people and people with mental illnesses, they are referring to a process whereby criminals are created through the enforcement of minor victimless offences such as jaywalking, camping or sitting. This process begins with a citation. Of those individuals with mental disabilities who had been approached by the police, nearly 80% reported receiving a citation. While the majority indicated receiving only 1-5 citations in the past year, nearly a third reported being cited on a nearly monthly basis. Citations were almost exclusively for minor offences. Violation of the Sit/Lie ordinance was the most commonly reported offence followed by jaywalking and open-containers. Fines for these (and most) quality of life offences range from \$100-200.

127 Graham Roberston, Richard Pearson, and Robert Gibb. “The entry of mentally disordered people to the criminal justice system.” *The British Journal of Psychiatry* 169, no. 2 (1996): 172-180.

128 Richard Lamb et al “The police and mental health.” *Psychiatric Services* 53 no. 10 (2014):1266-1271

129 E. F. Torrey, et al *More mentally ill persons are in jails and prisons than hospitals: A survey of the states*. Arlington, VA: Treatment Advocacy Center, (2010); Richard Lamb, Linda E. Weinberger, and Bruce H. Gross. “Mentally ill persons in the criminal justice system: Some perspectives.” *Psychiatric Quarterly* 75, no. 2 (2004): 107-126.

130 Katherine Beckett and Steve Herbert. *Banished: The New Social Control in Urban America* (Oxford University Press, 2011).

Not surprisingly, few were able to pay. For the majority of respondents (73%) citations were resolved either directly through incarceration (6%), were ignored or went to warrant, likely leading to eventual incarceration (20% and 52% respectively). On the bright side, jail times for misdemeanor bench warrants are relatively short, ranging from overnight up to about a week. Yet, for those who must grapple with the complexities of mental illness, even a short stint in jail can be devastating. For this population, incarceration for even a short period can result in loss of care, inability to access necessary medications, and immersion in an jail environment that both exacerbates and fails to account for mental health needs.¹³¹

Although San Francisco County jail is fortunate enough to have a jail psychiatric services department (JPS), short jail sentences lessen the likelihood of referral, while JPS wait times make it unlikely that referral will result in assessment. Further, even if an individual is lucky enough (or incarcerated long enough), to be both referred to and seen by JPS, lack of access to a patient's medical charts or history, often means destabilizing changes in treatment and medication dosing. The result is often an increase in symptoms of trauma, anxiety, depression, and psychosis while in jail and continuing upon release.¹³²

In San Francisco, those with serious mental health issues make up the majority of prisoners. This number has risen sharply over the past few years, from 56% in 2008 to 71% in 2013.¹³³ In California Prisons, the numbers are equally staggering. Over the past 15 years, the number of mentally ill people in prison in California has almost doubled. Today, 45 percent of state prison inmates have been treated for severe mental illness within the past year.¹³⁴

In the landmark *Plata/Coleman v. Davis/Schwarzenegger/Brown*, prisoners alleged that California officials inflicted cruel and unusual punishment by being deliberately indifferent to serious mental health and medical needs.¹³⁵ This national case was the genesis for Governor Jerry Brown's AB 109: Realignment, which changed the carceral face of California by assigning people with low level prison sentences to county level supervision due to the inability of the State to provide adequate healthcare in the face of dilapidated, overcrowded, and inhumane prison conditions¹³⁶

Unfortunately, the destabilization and exacerbation caused by incarceration, at either the state or county level, is often met with a lack of resources upon release, making consequences of incarceration even direr for those who have both a mental illness and are precariously housed. An immediate consequence of incarceration is the forfeiture of all public benefits including SSI, Medi-Cal, food stamps (SNAP), CalWorks, TANF, and General Assistance funding. For those in shelters, or SROs time in jail might mean the loss of housing and/or personal possessions such as clothing, identification, and medications. Additionally, incarceration can often mean a loss of employment due to absence and increased difficulty securing new employment stemming from their newfound criminal record. AB 109: Realignment was an opportunity for San Francisco to invest in alternatives to incarceration and re-entry support (like mental and medical healthcare, housing, and employment readiness) to decrease recidivism. While there were some model reforms that came from the Department of Probation regarding re-entry support, the Sheriff's Department has chosen instead to seek jail expansion dollars being offered by the State of California to respond to some county's over-reliance on jails in the face of Realignment.¹³⁷

The "Craziness" of Criminalization

Ironically, the loss of stability, housing, resources, and possessions caused by incarceration create the very disorderly bodies that led to police contact in the first place. Dirty, from lack of housing and clothes, possibly decompensated from lack of medication and care, hungry and desperate from lack of resources, this person embodies all

131 *Id.*

132 Bureau of Justice Statistics, "Special Report: Mental Health Problems of Prison and Jail Inmates" (September 2006).

133 City and County of SF Office of the Controller, *supra* note 92.

134 Stanford Law School Three Strikes Project, "When did prisons become acceptable mental healthcare facilities?" (May 1, 2014).

135 *Plata/Coleman v. Brown*, Case Nos. Co1-1351 TEH (N.D. Cal.) and 2:90-cv-0520 LKKJFM P (E.D. Cal.)]

136 http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120AB109.

137 Community Corrections Partnerships Executive Committee, *supra* note 82.

the conditions necessary for both citizen complaint and police intervention. Thus, they are even more likely to be stopped, cited and incarcerated and when they are released again, in even worse shape than before, the cycle begins anew.

Recommendations and Alternatives

End Police Profiling

Hold Officers Accountable and SFPD Reform

- 2014–2015 court documentation of racist and homophobic text messages as well as video documentation of police abusing a homeless person on a MUNI bus, are just two recent examples of what homeless people may face in their daily lives.¹³⁸ Officers should be disciplined including termination, when they demonstrate patterns of discriminatory profiling.
- Strengthen the Office of Citizens Complaints by ensuring adequate staffing, and increased power to hold officers accountable when biased policing occurs.
- Fully implement Crisis Intervention Team, including department-wide training, giving supervisory control to CIT trained officers at the scene, and changing general orders to ensure that officers use verbal de-escalation techniques rather than force if a person does not respond to commands.

Aggressively Re-Invest In San Francisco's Mental Health Services

SFPD, Legislative, and Agency Reforms

- Supportive and affirming treatment for those homeless people struggling with acute mental health issues is necessary for recovery. San Francisco has drastically cut the funding for mental health services. Increase and expand capacity of outpatient and mental health treatment which will have a dramatic effect in decreasing the number of homeless people in SF County Jails for mental health and homelessness-related issues.
- San Francisco continues to rely on Psychiatric Emergency Services for people in psychiatric crisis, a pathway that starts in handcuffs and ends in a locked facility, often a traumatizing and ineffective intervention. San Francisco has recently expanded community based psychiatric emergency through Dore Clinic, but they are often at capacity. The Department of Public Health should expand emergency community based psychiatric crisis services.
- Expand supportive housing for homeless people with mental illness. The current administration has decreased its commitment to supportive housing by half in its five year pipeline, when compared to past two Mayoral administrations.
- The city should continue to examine and possibly further expand mobile crisis as an alternative to calling police in response to individuals in psychiatric crisis.

¹³⁸ Lawyers Committee on Civil Rights, *supra* note 64.

Conclusion

This report has demonstrated how the criminalization of homelessness in San Francisco creates a vicious cycle of punishment that undermines the goals and investments of the city to end homelessness. Anti-homeless laws do not only affect a select group of homeless persons behaving in an “uncivil manner,” but the majority (74%) of respondents. The enforcement of laws that restrict a person’s ability to rest in outdoor public spaces does not result in their removal from public space, but merely moves them to other outdoor public spaces 91% of the time. This displacement only increases homeless people’s need to rest, results in new complaints, and further taxes police resources.

While poor people’s engagement in life-sustaining activities in public spaces frequently results in a citation, nearly 70% are not paid on-time, resulting in the issuance of a warrant, suspension of drivers license, and crippling debt. Finally, the survey shows that incarceration is a driver of homelessness; 11% of respondents that had been incarcerated reported being previously housed before arrest, while 92% of respondents who had been homeless at the time of arrest returned to homelessness. In sum, the study finds that law enforcement approaches to homelessness in San Francisco have backfired by exacerbating poverty and perpetuating homelessness.

In this conclusion we draw on the findings from our survey to dispel 6 common myths about the criminalization of homelessness in San Francisco. We then connect our findings to the existing human rights and policy arguments for decriminalizing homelessness. The section concludes drawing together the recommendations from each section of the report to layout an alternative policy framework for addressing homelessness in San Francisco. Less costly and more humane alternatives do exist. They only require the political will to set them into action.

Report Findings: 5 Myths of the Criminalization of Homelessness in San Francisco

Myth or Motivation	Report Findings
<i>San Francisco is a liberal city that does not criminalize homelessness</i>	
<p>“The thing that makes San Francisco different than any other city is that we really care. We’ve chosen a different approach. In many cities of our size if you were to feed someone who was experiencing homelessness you could be arrested. We have chosen a different path. Instead of hiding the homeless, we want to help.”</p> <p>—Kara Zordel, Project Homeless Connect</p> <p><i>(Source: #EndHomelessness Townhall, March 11, 2015. It is true, San Francisco does not have a food sharing ban, which exist in 12 California cities. However, this is largely because San Francisco was ahead of its time, becoming one of the first cities to ban on sharing food in public in the late 1980s, resulting in hundreds of arrests of Food Not Bombs, the resistance ended this enforcement.)</i></p> <p>“The reason that San Francisco appears to have a more serious problem with homelessness than other American cities is simple: They exist in plain sight—we don’t run our transients out of town... <i>Other cities</i> have essentially criminalized homelessness”. <i>(emphasis added)</i></p> <p>—Gary Kimura, SF Magazine</p> <p><i>(Source: Gary Kimura, “The Outsiders.” San Francisco Magazine, February 2015.)</i></p>	<p>San Francisco not only has more anti-homeless laws than any other California city, it enforces them vigorously.</p> <p>Between October 2006 and March 2014, the SFPD issued 51,757 citations for “quality of life crimes,” of which over 22,000 were for sleeping, sitting, or begging. In 2013 (last full year records were recorded), citations for sleeping, sitting, and begging accounted for 70% of all “quality of life” citations.</p> <p>Between 2011–2014 citations for anti-homeless laws more than tripled.</p>

<i>Anti-homeless laws don't criminalize homeless status they criminalize behaviors and affect a small group of disorderly homeless people.</i>	
<p>“The San Francisco Police Department treat all persons (homeless or otherwise), equally, regardless of economic or living conditions ... Homeless people have the same legal and individual rights as anyone.”</p> <p>–“Rights of the Homeless” SFPD Departmental Bulletin.</p> <p>(Source: SFPD, “Rights of the Homeless,” Bulletin B 13-234, 11/21/13.)</p> <p>“The legislation is not intended to target homeless people or people with mental health issues. It’s intended to address concerns related to public safety.”</p> <p>—(former) Supervisor Michela Alioto-Pier debating San Francisco’s sit/lie ordinance.</p> <p>(Source: Cited in Greg Zeman, “Sit-lie ordinance left to voters,” The Guardsman, Sept. 10, 2010.)</p>	<p>Homeless people’s status is defined by their lack of access to private property where they can retreat into to sleep, sit, drink, and rest. Our results suggest that these laws, criminalizing behaviors that <i>only</i> homeless people are required to undertake in public, criminalize homeless status.</p> <p>The majority of homeless respondents were forced to move from public space (70%) and issued a “quality of life” citation in the past year (69%). Of those without shelter, 90% were forced to move and 85% were cited, with 42% receiving 5 or more citations.</p> <p>San Francisco has less than one bed for every five of its homeless adults.</p>
<i>Anti-homeless laws are critical to maintaining public order</i>	
<p>“We want a return to civility to our sidewalks because they belong to everybody.”—Civil Sidewalks Campaign Website.</p> <p>(Source: Archived at http://www.livesoma.com/2010/08/19/civil-sidewalks-organization/)</p> <p>“Various local ordinances are moving along people who are sitting on the sidewalk. It is discouraging people from setting up encampments in parks and sidewalks.”</p> <p>–C.W. Nevius, Chronicle Columnist, March 2015</p> <p>(Source: C.W. Nevius, “SF Doesn’t Need LA County Senator’s ‘Right to Rest’ Bill.” San Francisco Chronicle. April 8, 2015. Leading up to the Sit/Lie vote in 2010, 20 of Nevius’ 71 columns focused on the ordinance or related issues (Scott James, “Chronicle’s Coverage of Sit/Lie Prompts a Question” New York Times. November 4, 2010.)</p>	<p>Our study revealed that the various local ordinances were moving people sitting on the sidewalk, but not out of public space as Nevius or the laws’ backers assert.</p> <p>Of the 244 respondents who reported being displaced in the past year, 139 reported that in the last time they were forced to move they simply moved down the street, crossed the street, or around the corner; 12 walked around or returned to the spot moments later; and 47 moved to a different neighborhood, but remained in public space. Only 19 respondents reported that they moved indoors. Anti-homeless laws don’t discourage homeless people from spending time in public space—homeless people have nowhere else to go. Instead, these laws waste money on the violation of homeless people’s human rights.</p>

<i>Criminalization is necessary to push the “service resistant” into services</i>	
<p>“This is not the solution I think it actually exacerbates the problem, because it now opens the door and I think communities will see ... anybody can sleep on the street overnight.”</p> <p>—California State Senator Patricia Bates on the Right to Rest Act.</p> <p>(Source: <i>California Senate Transportation and Housing Committee, April 7, 2015.</i>)</p> <p>“Outreach Officers work with city agencies, such as the Department of Public Health, The Community Justice Court, the Serial Inebriate Program, the Human Services Agency, and the Department of Public Works to provide targeted services for those in need ...”</p> <p>—SFPD Webpage “Quality of Life / Homelessness: Interacting with the Homeless Community.”</p> <p>(Source: SFPD: http://sf-police.org/index.aspx?page=4441)</p>	<p>Our survey of 351 homeless people found no evidence of a person entering shelter or services for any significant period of time due to an interaction with police officers. Not a single one of the 43 interviewees described an experience where such criminalization encouraged them into services.</p> <p>Of the 204 respondents who reported that their most recent displacement was by the SFPD, services were offered in only 24 instances: 10 were offered a shelter bed, 4 were offered a pamphlet with resources, 3 were offered food, 2 were offered a trip to detox, and 5 were assisted by the HOT team after the SFPD called them.</p> <p>Only 22% of those with citations resolved them by documenting hours of homeless services received, and these were almost exclusively for services already being received.</p>
<i>Decriminalizing homelessness does nothing to solve homelessness</i>	
<p>“By all accounts the solutions lie in getting the affected people housed and treating underlying causes, not by creating a special set of exemptions, privileges and rights for the homeless to occupy public and private property... SB608 (the Right to Rest Act) contains no solutions for homelessness.”</p> <p>—League of California Cities opening to its opposition letter of California’s Right to Rest Act.</p> <p>(Source: <i>League of California Cities, Letter to Senator Carol Liu, SB608 The Right to Rest Act, Notice of Opposition, (March 31, 2015).</i>)</p>	<p>Criminalizing creates and perpetuates homelessness. Decriminalizing will not end homelessness by any stretch, but it certainly will shorten the duration of homelessness for many, and make the experience of homelessness much less brutal.</p> <p>Criminalization creates barriers to housing and employment resources: 68% of respondents were unable to pay their fines, which result in the issuance of warrants, suspension of drivers licenses, and a more than doubling of the initial fine.</p> <p>Criminalization creates homelessness: 11% of respondents became homeless as a result of their most recent incarceration, before which they were previously housed.</p> <p>The interview excerpts presented in this report demonstrate how criminalization creates multiple barriers to attaining social services, employment, housing, and the most essential human needs such as rest, sanitation, and basic dignity.</p>

A Violation of Constitutional and International Human Rights

According to the US Interagency Council on Homelessness and the US Department of Justice, the enforcement of anti-homeless laws against people who have no choice but to live in public raises serious constitutional and human

rights questions.¹³⁹ On any given night the majority of San Francisco’s homeless are not sheltered, as there is less than one shelter bed for every five homeless persons.¹⁴⁰ In a similar context, the Ninth Circuit Court of Appeals ruled that a Los Angeles municipal law that prohibited sitting, lying, or sleeping in public places violated homeless people’s Eighth Amendment right to be free from cruel and unusual punishment.¹⁴¹ The confiscation of homeless people’s property has been ruled a violation Fourth Amendment guarantees against unreasonable searches and seizures, and resulted in millions of dollars in city lawsuits.¹⁴² Purportedly neutral laws used to criminalize homelessness often employ general terms to allow selective enforcement have been challenged for violating the Fourteenth Amendment’s constitutional guarantee of equal protection or for being written so broadly as to be unconstitutionally vague.¹⁴³ What all this amounts to is a reality legal scholar Jeremy Waldron noted over two decades ago: “What is emerging—and it is not just a matter of fantasy—is a state of affairs in which a million or more citizens have no place to perform elementary human activities like urinating, washing, sleeping, cooking eating and standing around.”¹⁴⁴ In other words, we are creating a nation in which a whole class of people simply cannot be, entirely because they have no place to be.

Not only does the criminalization of homelessness violate constitutional rights, it also violates basic human rights according to treaties that our country has signed and ratified. Following a warning by the United Nation’s Committee on Human Rights, the US Department of Justice and Interagency Council on Homelessness recognized in a major 2012 report that the criminalization of homelessness may “violate international human rights law, specifically the Convention Against Torture and the International Covenant on Civil and Political Rights.”¹⁴⁵ When a UN Special Rapporteur on the human right to safe drinking water and sanitation recently visited Sacramento’s homeless encampments she issued a letter to the city’s mayor stating: “Because evacuation of the bowels and bladder is a necessary biological function and because denial of opportunities to do so in a lawful and dignified manner can both compromise human dignity and cause suffering, such denial, in some cases, could amount to cruel, inhuman, or degrading treatment.”¹⁴⁶ While business improvement districts claim that anti-homeless laws are necessary to create a safe environment for the city’s tourists, it is unclear whether foreigners would be more shocked by the presence of homelessness or the degrading way in which homeless San Franciscans are treated by their city officials and police—if they only knew.

The powerful testimony expressed in the interview excerpts of this report captures not only the frustration and complications that criminalization causes in the lives of those experiencing homelessness in San Francisco, but equally the sense of violation, offense, and meanness that the criminal justice system subjects them to. If this is not illegal, it is certainly inhumane.

An Ineffective and Costly Urban Policy Approach

However, the human rights, let alone the civil rights, issues surrounding the criminalization of homelessness are rarely considered by policymakers. Instead, such matters are debated in terms of fiscal costs, “public safety,” and impacts on economic development.¹⁴⁷ Yet, even if we adopt this policy lens, the findings of this study raise serious questions about the costs and effectiveness of this approach.

139 USICH, *supra* note 3.

140 Applied Survey Research, *supra* note 6.

141 Jones v. City of Los Angeles, 444 F.3d 1118, 1138 (9th Cir. 2006), vacated by 505 F.3d 1006 (2007); Also see Pottinger v. Miami, 810 F. Supp. at 1571-1572.

142 Elizabeth Schultz, “The Fourth Amendment Rights of the Homeless,” *Fordham Law Review*, 1003, 1005-06 (1992). E.g., State v. Mooney, 588 A.2d 145, 161 (S. C. Conn. 1991) (holding that the homeless defendant had a reasonable expectation of privacy, and therefore a warrantless search of his personal property was invalid).

143 LA’s vehicle ban was ruled unconstitutionally vague in *Desertrain v. City of Los Angeles*, No. 11-56957, 2014 WL 2766541 (9th Cir. June 19, 2014); 671.

144 Jeremy Waldron. “Homelessness and the Issue of Freedom.” *UCLA Law Rev.* 39: 295 (1991).

145 USICH, *supra* note 3.

146 [Letter to Mayor Johnson, Sacramento from Catarina de Albuquerque, UN Special Rapporteur on the human right to safe drinking water and sanitation, 2012.](#)

147 SB608, California’s Right to Rest Act did not even make it to the Judiciary Committee where it was predicted to pass because it was stalled in the committee of Transportation and Housing.

“If you have so little respect for a person, that if you criminalize them for existing, they have very little interest in that social contract. It cuts people out of being engaged in society and I think that has an impact on a persons ability to take care of themselves and get their lives back together because you’re basically telling someone you’re not part of our community.”

—Gary Lewis, Former Executive Director of SF General Assistance Advocacy Project

Our survey and interviews found that criminalization did not significantly reduce homeless people’s presence in public space or deter camping, loitering, begging, sitting, or sleeping in public. There was no evidence to support the claim that criminalization led more homeless people to seek or receive services—police almost never offered services or referrals to our respondents and when they did, these services were primarily in form of a pamphlet, one-night shelter bed, or sandwich. Our survey and interviews did find that criminalization created significant barriers to employment, housing, and financial stability. The respondents’ reports of numerous citations, warrants, license suspensions, fines, and court-ordered debt suggest that criminalization extends, rather than resolves, homelessness, and therefore inevitably increases the “criminal” activities of camping, sleeping, sitting, and loitering in public space.

The costs are less straightforward, but clearly exorbitant in light of the failure of anti-homeless laws to help homeless people, or even move them out of public space. \$3 million in DPW sweeps dedicated to camp clearances.¹⁴⁸ 24 dedicated “homeless outreach” officers at an annual cost upwards of \$2 million.¹⁴⁹ Court processing costs running over half a million a year for “quality of life offenses.”¹⁵⁰ And the cost of

jailing people who would otherwise be homeless hovering anywhere between \$8–\$20 million per year.¹⁵¹

These costs are just the tip of the iceberg. Complete data on the costs of criminalizing homelessness are unavailable. This lack of information is a result of the political priorities of the San Francisco city agencies and politicians that meticulously track and quantify spending on homeless services, while neglecting to assess the impacts, outcomes, and costs of the criminalization of homelessness. The frequently cited \$165 million amount spent on homelessness each year comes from a report requested by Supervisor Mark Farrell to assess “a comprehensive summary of the City’s services and benefits for persons who are homeless.”¹⁵² The report makes no attempt to include the costs incurred by the City’s punishment of homelessness or the health costs incurred by leaving people to live on the streets.

Compare this method of accounting to the recent report issued by the Los Angeles’ City Administrator’s Office that assessed the cost of homelessness in the city at over \$100 million, of which labor costs of police enforcement were measured to be between \$46–\$80 million of the total budget.¹⁵³ While LA does not include its expenditures in permanent supportive housing as part of its homelessness budget, it does include the cost of policing its poorest. San Francisco, on the other hand, disregards the costs of criminalization, but includes \$81.5 million in Permanent Supportive Housing—a metric LA counts in its housing budget, rather than as an expenditure of homelessness—to reach its generous \$165 million.¹⁵⁴ Contrast both these estimated “costs of homelessness” with the recent estimation of the cost of homelessness in Santa Clara County, by the independent research firm Economic Roundtable, which pins the annual “cost of homelessness” at \$520 million by summing up social services (13%), justice system costs (34%), and health care costs (53%).¹⁵⁵

¹⁴⁸ Mattier and Ross, *supra* note 45.

¹⁴⁹ Calculated conservatively from the annual starting salary for a San Francisco police officer is \$80,574, available at <http://www.sf-police.org/index.aspx?page=1655>.

¹⁵⁰ Calculated to adjust for inflation and changes of quality of life enforcements from Elaine Forbes et al. Legislative Analyst Report—*Processing ‘Quality of Life’ Violations*. 2002.

¹⁵¹ Calculation drawn from 2011 and 2013 Point in Time Counts (Applied Survey Research *supra* note 6) multiplied by daily cost of incarceration (Lawyers Committee for Civil Rights, *supra* note 64).

¹⁵² San Francisco Office of Budget and Legislative Analyst, *supra* note .

¹⁵³ Office of the City Administrative Officer, “Homelessness and the city of Los Angeles” (April 16, 2015).

¹⁵⁴ San Francisco Office of Budget and Legislative Analyst, *supra* note 4.

¹⁵⁵ Economic Roundtable. *Home Not Found: The Cost of Homelessness in Silicon Valley* (May 26, 2015).

These radically variable assessments should make clear that the cost of homelessness in San Francisco is more a political fabrication than an objective measure. To make informed decisions about how to address homelessness, agencies and City officials should raise the level of data collection and reporting about the criminalization of homelessness to the same standards as its assessment of housing and social services. What is even more troubling though, is the lack of interest within City government in accounting for the human impacts of these policies. City leaders must pursue solutions that are more effective, economical, and humane.

Moving Towards the Decriminalization of Homelessness

Over the last 35 years homelessness has been increasingly criminalized in San Francisco. The failure of this policy has been vividly demonstrated in this report. We need a new approach.

How can we roll back the criminalization of homelessness? The most effective and humane approach would be to end homelessness through the provision of housing, and the Coalition and its allies have consistently provided concrete proposals to do so. At the same time we need to reform and abolish existing systems of punishment. In each of the report's sections, the Coalition on Homelessness Human Rights Work Group has provided concrete actions that can be taken by the San Francisco Board of Supervisors, City and State agencies, as well as citizens and organizations to end the criminalization of homeless people. In this conclusion we compile these detailed recommendations, and also outline four general directions for change.

Invest in Affordable Housing and Services

The most humane approach to end the criminalization of homelessness is to end homelessness itself through the provision of housing. Our study found that interactions with law enforcement, including displacement and citation, were closely tied to the lack of access to housing and shelter. Increased investments in health and human services keep people housed, shorten the length of homelessness, and greatly reduce the risk of a person's entanglement with the criminal justice system. The COH recommends a diverse approach to housing, including supportive housing for those who need it, expansion of subsidies in affordable and private market housing, and prioritization of public housing for the homeless population.

Abolish Anti-Homeless Laws

This study has revealed that anti-homeless laws are costly and ineffective. The SFPD claims that they have no choice but to respond to wealthier San Franciscans' complaints about their homeless neighbors and enforce such laws. The movement to abolish anti-homeless laws is spreading rapidly throughout the US. We believe that the best solution to abolishing anti-homeless laws is through a state or federal Right to Rest Act.

Just as it took Federal and state-level action to end the enforcement of Jim Crow, Anti-Okie, and Sundown laws, and to overcome the resistance of localities trying to push out marginalized communities onto other cities, we believe that the best strategy to abolish anti-homeless laws is to press the state and Federal governments to take action.

Rhode Island, Connecticut, and Illinois have already passed similar legislation in their state legislatures. This year a Right to Rest Act Bill received legislative hearings in California, Oregon, and Colorado through the coordinated organizing of the Western Regional Advocacy Project, of which the COH is a core member.¹⁵⁶ The bill would prohibit the enforcement of any local law that violates a persons right to (1) move freely, rest, sleep, pray and be protected in public space without discrimination, (2) rest in public spaces and protect oneself from the elements in a non-obstructive manner, (3) occupy a legally parked vehicle, and (4) share food and eat in public. The bills will likely be heard again in the next legislative sessions.

The strongest forces of opposition to the Right to Rest Act in its debut hearing in California were associations of cities and counties. While Alameda County offered a formal endorsement of the act, San Francisco did not—even

¹⁵⁶ Western Regional Advocacy Project, "[Right to Rest Fact Sheet](#)," (January 29, 2015).

though Mark Leno, the city's House congressional representative and chair of the House's Judiciary Committee was one of its strongest supporters. San Francisco supervisors and agency heads should publicly support a state-wide Right to Rest Act.

Halt Punitive Enforcement

Our study revealed that the SFPD and Recs and Parks are enforcing anti-homeless laws at an alarmingly high and increasing rate, and that this enforcement affects homeless San Franciscans on a regular basis.¹⁵⁷ While Police and Park officials claim that they are simply enforcing the laws or responding to complaints, there are ways to both reduce enforcement and reduce the punitive nature of such interactions.

First, departmental leaders have agency and discretion in allocating resources to particular areas and particular types of crimes. The extreme fluctuations in the issuance of quality of life and anti-homeless laws that our report uncovered indicate that even when the laws stay the same, enforcement can adjust. Furthermore, the agencies charged with handling homelessness-related "crimes" could also deploy less punitive strategies, avoiding physical and verbal escalation, and using crisis intervention rather than threat, citation, or arrest.

Second, and more systematically, San Francisco should stop over-investing in its criminal justice system, which will inevitably lead to the increased criminalization of homelessness. In the current budget cycle there is a proposal for a new \$278 million jail despite the fact that the current jail is typically at 57% capacity.¹⁵⁸ Also included in the budget proposal is the addition of four new police academies at a cost of \$62.4 million.¹⁵⁹ This money could be invested in addressing the root causes of crime, including affordable housing, and therefore reducing police time spent responding to homelessness.

Grant Amnesty and Abolish Court Ordered Debt

This study documented the ways that citations and fines created multiple barriers for people trying to exit homelessness, and left people at risk of returning to homelessness even after escaping. Our study also found that homeless people's inability to pay bail increased their periods of incarceration upon entrance, and that court ordered debts sunk some housed people into homelessness and prevented others from exiting homelessness.

To prevent homelessness and avoid its perpetuation, the City and County of San Francisco should take every step to grant amnesty to those with fines and fees who cannot afford to pay them, end the practice of incarcerating people simply because they are too poor to afford bail, and halt the practice of using a driver's license as a debt collection tool for non-traffic violations.

As San Francisco fails to respond to basic needs of its poorest denizens, the Coalition on Homelessness Human Rights Work group provides a detailed guide of concrete policy actions to begin repairing the damage. The voices of homeless individuals themselves are central to ending homelessness and the suffering attached to it. By implementing the recommendations of the Coalition on Homelessness Human Rights Work Group, San Francisco can stop the failed approach of criminalization and instead move towards a true investment in the health and sustainability of *all* San Franciscans.

Steps to Decriminalize Homelessness and Constructive Alternatives

Continual Policing and Displacement

- End the Constant Policing and Continual Displacement
- Reduce the Resources Dedicated to Moving Homeless People Around and Allocate Resources to Real Solu-

¹⁵⁷ See HSA, *supra* note 7; Rec and Park, *supra* note 7.

¹⁵⁸ For cost see SF DPW, *supra* note 98; For capacity see Community Corrections Partnership Executive Committee, *supra* note 82.

¹⁵⁹ The Mayor's Office proposes four classes per year for next two years: \$31,200,000 per year or \$62.4 million.

tions to Help End Homelessness

- Create Alternatives So People Don't Have to Perform Life-Sustaining Activities in Public

Mass Citation and Impossible Fines

- Reform the Broken and Costly Court Process for Infractions
- Stop Issuing Warrants, Arrest, and Suspension of Drivers Licenses for Unpaid Fines
- Improve Information and Accountability on the Impacts and Costs of "Quality of Life" Policing and Citation

Arrest, Incarceration, and Re-Entry

- End Poverty-Related Arrests
- Expand Pre-Arrest Diversion and Pre-Trial Release
- Abolish Bail and End Pre-Trial Incarceration for Low Level Offenses
- Conduct Needs Assessments and Track Homelessness Upon Release
- Aggressively Invest In Re-entry Support Services and Community-Based Re-entry Support
- End Incarceration Related To Violations of Probation and Parole Terms Related to Homelessness
- Implement Amnesty For and Abolish Court-Imposed Debt
- Allocate Jail Savings to Solutions to Homelessness
- Implement Transformative Justice and Restorative Justice At All City Levels

Intersections of Disadvantage

- End Police Profiling
- Halt Expansion Of The Police Force and Park Rangers
- Aggressively Re-Invest In San Francisco's Mental Health Services
- Supervisors should immediately request a report from the Office of Budget and Legislative Analyst on the costs of the criminalization of homelessness in San Francisco, including costs, volume, and procedures of law enforcement contact, citations, court processing, arrest, and re-entry.

“Now one question we face as a society—a broad question of justice and social policy—is whether we are willing to tolerate an economic system in which large numbers of people are homeless. Since the answer is evidently, “Yes,” the question that remains is whether we are willing to allow those who are in this predicament to act as free agents, looking after their own needs, in public places—the only space available to them. It is a deeply frightening fact about the modern United States that those who *have* homes and jobs are willing to answer “Yes” to the first question and “No” to the second.”

—Jeremy Waldron

“Homelessness and Freedom,” *UCLA Law Review* Vol 39: 295 (1992).

Appendix 1: 35 Years of Failure

As you read this historical policy record of the criminalization of homelessness ask yourself: If these so-called “Quality of Life” laws are so effective at reducing homelessness, don’t you think San Francisco would see some tangible results after 35 years?

Feinstein Administration

- 1981 Ordinance passes banning sleeping in parks between 8pm-8am.
- 1984 Ordinance passes banning habitation in vehicles.

Agnos Administration

- 1988 Sweeps in Golden Gate Park, Civic Center, and Cole Valley.
- 1989 Mayor Agnos orders Police Chief Frank Jordan to sweep Civic Center Plaza of the 60-100 people living there.

Jordan Administration

- 1992 Between 1988-1995 Food Not Bombs is arrested over 1000 times for sharing food.
After the passage of Prop J (put on the ballot by Mayor Jordan), the City outlaws aggressive panhandling.
Alvord Lake (part of Golden Gate Park) was closed during the evening.
- 1993 The Matrix Program begins. Between August and December 5, 602 citations are issued to homeless people for “quality of life” offenses. More citations for sleeping and camping in the parks, drinking in public, obstructing the sidewalk and sleeping in the doorways were issued in the first month of Matrix than in the five previous years combined.

The Transbay Bus Terminal, home to more than 100 homeless people, locks its doors to them. A program serving many of the Terminal’s severely mentally ill residents is shut down.

Virtually every city park is closed at night by the Recreation and Parks Commission.
- 1994 “No parking from 2:00am to 6:00am” signs are put up by the Port Authority on a street in China Basin where most of the city’s mobile residents reside.

Mayor Jordan declared to the media that armed criminals posing as homeless people are using their shopping carts to transport weapons. He ordered the SFPD to arrest people in possession of shopping carts. The people of San Francisco openly express their outrage at this proposal and no one gets arrested.

Sit/Lie Ordinance Fails to Pass as Proposition
11,562 “quality of life” citations issued.
- 1995 In August, Mayor Jordan plans Matrix II, “Take back our Parks:” a multi-departmental intensive sweep of Golden Gate Park, and uses it as a media moment in his mayoral campaign. Homeless people lose property and are displaced.

14,276 “quality of life” citations issued.

Brown Administration

- 1996 50 homeless people are evicted from a lot in the Bayview referred to as “Land of the Lost.” The City settles out of court.

- Mayor Brown declares Matrix is over.
- SFPD forms “Operation Park.” 2-6 police officers on each shift are assigned to roust and cite homeless people in the parks of their districts.
- 17,532 “quality of life” citations issued. More citations issued after ending the highly unpopular “Matrix Program.”
- 1997 Massive sweeps of Golden Gate Park begin. Mayor Brown asks to borrow the Oakland Police Department’s night vision-equipped helicopter to locate homeless people illegally sleeping in the park, but is denied. Homeless people lose property and are displaced. A special crew of Recreation and Park employees is formed specifically to maintain order and identify and destroy encampments across the city.
- Caltrans creates a special unit that sweeps homeless people and their property from under bridges and highways.
- 15,671 “quality of life citations” issued.
- 1998 “No Loitering or Sleeping” signs are placed in public parks around the city.
- Civic Center Plaza is remodeled. The fountain is removed, two children’s playgrounds are added, and the park is cleared of homeless people. A police officer was assigned to monitor the park. In a 2015 chronicle article, Brown admits the primary motivation was to rid the area of homeless people.
- Board of Supervisors makes it illegal to drink in parks where poor people congregate.
- Board of Supervisors passes ordinance making it possible for police to cite people for camping or sleeping in UN and Hallidie Plazas.
- 18,590 “quality of life” citations issued.
- 1999 SFPD officers take photos of homeless people claiming they were “creating a scrapbook.” They distribute copies to local merchants ordering them not to sell alcohol to anyone in the pictures because they are “habitual drunkards.” City settles lawsuit out of court.
- Anti-panhandling legislation, called “Pedestrian Safety Act” fails to pass.
- Mayor Brown orders homeless people to be charged with felonies if found in possession of a shopping cart. After a week of bad press, he never orders it.
- 23,871 “quality of life” citations issued.
- 2000 City attorney begins prosecuting homeless people in traffic court for “quality of life” offenses. Program costs \$250,000 and fails in its stated purpose to connect homeless people with services they supposedly refuse.
- Ordinance banning camping in parks passes.
- 17,954 “quality of life” citations issued.
- 2001 Ordinance banning loitering near public toilets passes.
- Benches are moved from UN Plaza in a midnight attack, costing city \$24,000 in overtime.
- Large encampment under Cesar Chavez Circle overpass is swept by DPW. Property belonging to homeless residents was videotaped being thrown into garbage truck. After the story aired on local news, Mayor Brown claims homeless advocates staged the incident and that the homeless person interviewed by news crews was an actor. 75 homeless people were displaced and many lost property. A fence is erected by Caltrans.
- DA starts prosecuting California Penal Code 647(j), a misdemeanor that makes it illegal to lodge on public or private property. Homeless people begin to spend more time in jail.
- The city spends \$30.8 million to incarcerate homeless people in 2001.

- 9,134 “quality of life citations” issued.
- 2002 A large encampment is swept from Berry Street. 100 homeless people are displaced and a fence is erected by DPW. City spends \$13,644 on this sweep, not including costs for extensive police presence on the day of the sweep.
- DPW starts “Operation Scrubdown” targeting downtown streets and alleys. Workers move encampments, and then hose them down with nasty chemicals making it impossible to return to that spot. DPW estimates that the operation cost the city \$11,000 every day.
- Board of Supervisors passes new law prohibiting urinating and defecating in public, but no new public bathrooms are opened.
- 6,957 “quality of life” citations issued.
- 2003 “No habituating in your vehicle between 10pm-6am” signs are put up in China Basin and Bayview districts.
- Ordinance banning aggressive panhandling passes to include areas around check cashing operations and motor vehicles.
- Homeless people living and caring for the property behind Laguna Honda hospital are relocated.
- Homeless people are swept out of Dolores Park by SFPD. A nearby drop-in center is closed indefinitely.
- 10,000+ “quality of life” citations issued.

Newsom Administration

- 2004 Anti-panhandling ordinance championed by Newsom, and passed as a ballot initiative comes into effect. Newsom claims criminalization will push violators into substance abuse or mental health treatment. Instead, the treatment remains grossly underfunded, and the result is fines and arrest.
- SF Coalition discovers that it costs San Francisco more than \$10,000 to prosecute a single CPC 647(j) case (that’s “illegal lodging” to the uninitiated), which was being charged as a misdemeanor at the time.
- SFPD launches “Operation Outreach” and begins assigning special units of officers to addressing 911 calls regarding homelessness.
- Camping citations triple from 436 in 2003 to 1114 in 2004.,
- 2005 District Attorney grants amnesty to thousand homeless people with “nuisance” citations.
- Despite promises that no one would be arrested for the anti-panhandling Prop M passed in 2003, the police begin arresting some for simply begging.
- 2006 San Francisco is named the 11th meanest city in the nation to its homeless according to a National Law Center on Homelessness and Poverty and the National Coalition for the Homeless, based on an index of anti-homeless laws and the severity of penalties among other indicators.
- City creates “focused enforcement” program to target quality of life infractions including sleeping in public, while city loses 300 shelter beds over the past 18 months.
- 2007 Eight days after Chronicle runs story on homelessness in Golden Gate Park, Police raid camps at the park at 4:30am. After, 7 workers are hired to work full-time to remove encampments.
- Newsom proposes new park code to expand the definition of camping to prohibit modifying “the landscape in any way in order to create a shelter or accommodate household furniture or appliances or construction debris in any park.”
- 2008 Panhandler shot dead by officers who were trying to give him a citation for begging, when the man pulled a knife out as he was trying to escape.

- 2009 San Francisco is named the 7th meanest city in the nation to its homeless, according to a National Law Center on Homelessness and Poverty and the National Coalition for the Homeless. A move up from #11 three years earlier.
- San Francisco launches the Community Justice Center, which focuses on low-level crimes in the Tenderloin. Although the court's diversion of these cases from jail-time may be seen as a step towards de-criminalization – lowering punishments and reducing jail costs —some scholars and critics also see this as a further legitimization of dealing with sleeping and drug-use through a punitive court system, rather than simply expanding social services. In its first year, the most common crime tried is misdemeanor sleeping followed by possession of a crack-pipe. In the same year, shelters and resources for substance abuse are cut in the city budget.
- 2010 In a replay of the 1993 Transbay terminal sweep, the State closes the terminal where roughly 140 San Franciscans lived, a large portion among the most disabled people in the city. Newsom was quick to boast about the work the City was doing in housing people, but an investigation of the Coalition found that the services being offered were merely a couple dozen already-existing shelter beds taken from other homeless people, and a handful of stabilization rooms.
- Sit/Lie Ordinance is enacted through voter passed proposition and championed by Newsom. A blitz media campaign funded largely by Pacific Heights moguls ultimately outspent opponents by roughly \$400,000.

Lee Administration

- 2011 317 homeless people found in San Francisco's jail in the Point in Time Count, the first time the count included counting those in jail. This amounted to roughly 25% of the entire jail population and represented 5% of the homeless people counted that night.
- SF Recreation and Parks hire 10 new rangers leading to a six-fold increase in citations for sleeping in camping over the next three years.
- 2012 Oversized vehicle ban ordinance passes through the board of supervisors. MTA begins plastering signs throughout the entire city, which continues to this day, narrowing the legal spaces homeless people may park their vehicles.
- Benches removed from Harvey Milk Plaza by the Castro/Upper Market Community Benefit District.
- 2013 Supervisors pass a park closure ordinance, making it illegal for those with out shelters to sleep from 12 am–5 pm.
- 2014 BART begins displacing, citing, and arresting homeless people resting inside stations.

Fecha de Hoy: _____

¡Gracias por ofrecerse a completar esta encuesta! Esta encuesta es acerca de la gente basada en las calles y sus interacciones con la policía. Usted puede participar si usted ha vivido en las calles aunque sea por una sola noche. **Esta encuesta es anónima.** Usted puede detener esta encuesta en cualquier momento.

1. Lugar de la encuesta: _____
2. ¿Dónde esta viviendo en este momento?
 Calle Tienda de campaña/Parque Albergue SRO Amigos / Familia
 Apartamento rentado Vehículo Edificio abandonado/Okupa Otro: _____
3. **¿Se le ha acercado el Departamento de Policía de San Francisco en alguna ocasión al estar en la calle o en un espacio público?** Sí No *En caso negativo, pase a la pregunta #6*
4. En caso afirmativo ¿cuántas veces sucedió durante el mes pasado? _____
Año pasado? _____ *Ponga el número exacto*
5. En caso afirmativo, ¿puede describir la última vez que sucedió y en donde?

6. **¿Alguna vez ha sido buscado por oficiales de la ciudad?** Sí No
7. En caso afirmativo, ¿Cuándo fue la ultima vez que sucedió?

8. En caso afirmativo, ¿En que vecindario se encontraba usted cuando lo esculcaron?

9. ¿Alguna vez estos oficiales le han quitado sus pertenencias personales? Sí No
10. En caso afirmativo, ¿qué se llevaron?

11. ¿Alguna vez estos oficiales han destruido alguna de sus pertenencias? Sí No
12. En caso afirmativo, ¿qué destruyeron?

13. ¿El miedo de ser esculcado previene de cargar consigo cosas específicas? Sí No
14. En caso afirmativo, ¿qué cosas?

15. **¿Alguna vez se ha visto obligado a moverse al estar en un espacio público?** Sí No *En caso negativo, pase a la pregunta #22*
16. En caso afirmativo, ¿En que vecindario se encontraba usted cuando le pidieron que se moviera?

17. Cuando lo movieron, ¿a dónde fue usted?

18. En caso afirmativo, quien lo forzó a moverse?

19. En caso de que hayan sido oficiales de la ciudad quienes le hayan pedido moverse: ¿Le ofrecieron alguna tipo de servicios al hacerlo? Sí No
20. En caso afirmativo, marque todas las que correspondan:
 Albergue Vivienda Comida Servicios médicos Equipo de supervivencia
 Otro: _____
21. ¿Cómo se sintió en el nuevo lugar a donde se movió?
 Mas seguro Menos seguro Igual

22. ¿Le ha citado o impuesto una multa el SFPD? Sí No En caso negativo, pase a la pregunta #29

23. En caso afirmativo, ¿cuántas multas recibió el año pasado? 0-5 5-10 10-15 Más de 15

24. En caso afirmativo, ¿por qué le dieron la multa? (la multa más reciente)

25. ¿En qué vecindario se encontraba cuando le levantaron la infracción?

26. ¿Qué pasó con la multa? Marque todas las que correspondan

- Se presentó a la corte y el caso fue descartado Caso resultó en mandamiento judicial (warrant)
 Lo ignoré El caso fue descartado mediante encarcelamiento Fui multado Hice servicio comunitario

27. Si fue multado, ¿pudo usted pagar la multa? Sí No

28. En caso de haber recibido libertad condicional ¿Le ha afectado esta libertad condicional al aplicar para vivienda? Sí No No traté

29. ¿Alguna vez ha sido arrestado y encarcelado en la cárcel del condado de SF o en la prisión estatal de California?

- Sí No En caso negativo, pase a la pregunta #40

30. En caso afirmativo, ¿cuántas veces? _____

31. En caso afirmativo, ¿En qué vecindario se encontraba usted cuando le arrestaron? (el arresto más reciente)

32. En caso afirmativo, ¿Cuándo fue la última vez que esto sucedió?

33. ¿Está usted actualmente en libertad condicional o libertad bajo palabra? Sí No

34. Durante su último encarcelamiento, ¿tuvo usted acceso a un abogado? Sí No

35. Durante su último encarcelamiento, se le ofreció algún servicio de viviendas después de liberación? Sí No

36. En caso afirmativo, marque todas las que correspondan

- Vivienda Lista de vivienda de Asistencia General (GA) Otro: _____

37. ¿Le afectan sus términos de libertad condicional o libertad bajo palabra al solicitar vivienda? Sí No No traté

¿Puede describir su situación de vida en cuanto a su arresto?

38. Antes: _____

39. Después: _____

Datos demográficos:

40. ¿Cuántos años tiene? _____

41. ¿Cuál es su raza / etnia?

- Afro-americano / Negro Latino / Latino Indio Americano Asiático o de las Islas del Pacífico Blanco

Otro (especificar): _____

42. ¿Cuál es su género?

- Mujer Hombre Genderqueer Trans Mujer Trans Hombre Otro: _____

43. ¿Cuál es su orientación sexual?

- Gay Lesbiana Bisexual Heterosexual Otros (especificar): _____

44. ¿Tiene alguna discapacidad física o mental?

- Sí, física Si, mental No

45. Por favor, marque todas los beneficios públicos que usted reciba en para satisfacer sus necesidades básicas: Reciclaje Pedir dinero en la calle Periodico Street Sheet SSI/SSPI GA

Cal-works Otros (especificar): _____

Date today:

Thank you for volunteering to complete this survey! This is a survey about street-based people's interactions with the police. You can participate if you have ever been homeless, even just for one night. **This survey is anonymous.** You can stop the survey at any time.

1. Location of the survey (to be filled out by survey proctor): _____

2. Where are you staying right now:

- Street Camping/Park Shelter SRO Friend/family's place Rent apartment
 Vehicle Abandoned building/squat Other: _____

3. **Has San Francisco Police Department ever approached you on the street or in a public space?** Yes No *If no, proceed to question #6*

4. If yes, how many times the past month? _____ Past year? _____ *Put in exact number*

5. If yes, can you describe the last time this happened and where?

6. **Have you ever been searched by city officials?** Yes No

7. If yes, when was the last time this happened?

8. If yes, what neighborhood were you in, the last time you were searched?

9. Have city officials ever taken away your personal belongings? Yes No

10. If yes, what did they take?

11. Have city officials ever destroyed any of your belongings? Yes No

12. If yes, what did they destroy?

13. Does fear of being searched prevent you from carrying around specific things? Yes No

14. If yes, what things?

15. **Have you ever been forced to move from a public space?** Yes No *If no, proceed to question #22*

16. If yes, what neighborhood were you in, the last time you were asked to move?

17. If yes, where did you go?

18. If yes, who made you move?

19. If city officials made you move: When they made you move, were you offered any services?

- Yes No

20. If yes, check all that apply

- Shelter Housing Food Medical services Survival Gear Other: _____

21. After you were forced to move, how did you feel in your new location?

- Safer Less safe Same

22. Has SFPD ever cited/ticketed you? Yes No *If no, proceed to question #29*
23. If yes, how many the last year? 0-5 5-10 10-15 More than 15
24. If yes, what were you cited for? (*most recent citation*)

25. What neighborhood where you in, when you got the citation?

26. What happened with the citation? *Check all that apply*
 Showed up for court and the case got dismissed Case went to warrant I ignored it
 Case got dismissed through incarceration I was fined I did community service
27. If fined, were you able to pay the fine? Yes No
28. If it went to warrant, did your warrants affect you when applying for housing? Yes No
 Never tried
29. Have you ever been arrested and incarcerated in SF county jail or California State Prison?
 Yes No *If no, proceed to question #40*
30. If yes, how many times? _____
31. If yes, what neighborhood were you in, when you got arrested? (*most recent*)

32. If yes, when was the last time this happened?

33. Are you currently on probation or parole? Yes No
34. During your last incarceration, did you access a lawyer? Yes No
35. During your last incarceration, were you offered any services or housing upon release?
 Yes No
36. If yes, check all that apply
 Housing GA Housing wait list sign-up Other: _____
37. Did your incarcerations affect you when applying for housing? Yes No Never tried
 Can you describe your living situation around your last incarceration?

38. Before: _____
39. After: _____

Demographics:

40. How old are you? _____
41. What is your race/ethnicity?
 African-American/Black Latino/Latina Native American Asian or Pacific Islander
 White Other (please specify): _____
42. What is your gender? *Check all that apply*
 Female Male Genderqueer Trans woman Trans man Other: _____
43. What is your sexual orientation? Gay Lesbian Bisexual Heterosexual
 Other (please specify): _____
44. Do you have a physical or mental disability?
 Yes, physical Yes, mental No
45. Please check off all the ways you get money or resources to meet basic needs:
 Recycling Panhandling Street Sheet SSI/SSPI GA Cal-works
 Other (please specify): _____