

# **THE HUMAN RIGHT TO HOUSING AND THE UNITED STATES**



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THE RIGHT TO ADEQUATE  
HOUSING AND EXTREME  
POVERTY AND HUMAN RIGHTS**

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# EXECUTIVE SUMMARY

BY ALLESANDRA PLOURDE

The Universal Declaration of Human Rights and human rights treaties guarantee all people the right to adequate housing, but in the United States many people do not have a place to rest their heads at night. They are not guaranteed a meal every day. They are not guaranteed safety, as every human should be, based on basic human rights. As of 2017, there are half a million homeless people in the United States—half a million people without a place to call home. Individuals have the right to life and housing, and these rights are not dependent upon social or economic status. Within this report, we will examine homelessness and the laws restricting these basic human rights. The states addressed are California, focusing on the cities of San Diego and San Francisco, Florida, Massachusetts, Oregon, Pennsylvania, Washington, D.C., and the state of Washington, focusing on the city of Seattle.

There are restrictive measures that prevent homeless people from having basic human needs, shelter and property. However, the focus should be placed on what can be done to *prevent* homelessness in the first place. With emphasis on the root problem, all other restrictive laws become null. Anti-homelessness infrastructure in the United States creates a limited number of areas in which the homeless population can find shelter. If they do find shelter, they are limited in their ability to stay there for extended periods of time and protect their property. In Seattle and Florida, homeless populations are prohibited from sitting and lying down in specific commercial areas, directly targeting them for simply existing when they have no other options for shelter in their city. In places like D.C., the homeless population has grown exponentially, increasing by 20% in the past year because of the pandemic. There is specific architecture in the city that prevents homeless populations from settling in those areas, which is a trend in other cities as well, like San Diego. In addition, there are ordinances in counties like Pasco County, Florida, that allow for the removal in specific areas as to not “disturb the public,” granting the police authority to remove homeless people from the view of the public if they are considered a ‘nuisance.’ This broad-scope definition not only directly targets homeless people, but leaves enforcement to the absolute discretion of an officer.

Homelessness is an issue that needs to be addressed immediately. Without action, the problem only becomes greater. States are targeting the homeless population with legislation that actively prevents them from acquiring some “good Samaritan aid,” a place to rest, and, if there are places to rest, they become full or are not equipped with the right resources to aid so many people. In Massachusetts, shelters are set up based on the needs of the area. The higher the homeless population, the more shelters are put in place, but that causes a problem--because some counties have a homeless population, but do not hit the threshold for a shelter. Occupancy in a shelter is contingent on proof of income and having limited valid reasons for stay. The application process for further housing is confusing and difficult for those that need it most. Encampment sites, also referred to as ‘tent cities,’ are often removed by law enforcement because of ordinances that allow them to be removed. This causes communities of homeless populations to be ripped apart with little respect for their shelter and property. In places like D.C., this is a huge problem, because the homeless are displaced with limited options for recovery.

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Addressing the needs of the homeless and taking accountability on the part of each state, city, or county is just one way to minimize the problem. We must figure out how to prevent the homeless population from being targeted, and provide them with more resources to secure shelter and protect their property. Guaranteeing all humans their basic needs should be the focus and top priority in creating a better future.

## KEY FINDINGS

- Laws within each state prevent homeless people from having essential human rights like shelter.
- There are loosely constructed laws in states like Florida and Washington which allow police officers a broad range of discretion to make arrests.
- There are laws intentionally written that target homeless people, denying them the right to shelter and other rights guaranteed by international human rights law.
- Cities in the United States, like San Diego, have created laws that do not protect the homeless population, but focus on the superficiality of the outward appearance of the city.
- Restricting the spaces homeless people can camp at regulates the population and causes overflow because these spaces are not large enough to provide proper room for everyone.
- Homeless populations are fined, ticketed and arrested for holding 'temporary abodes' in public spaces, a violation of their right to shelter.
- There is anti-homeless infrastructure in cities to prevent homeless populations from finding comfort on structures like a park bench.
- Tent city communities are being ripped apart, with little respect for shelter and property.
- Applications for aid need to be more comprehensive.

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# 1. HOMELESSNESS IN PENNSYLVANIA

BY WILLIAM STEVENSON

The Commonwealth of Pennsylvania consistently ranks highly among U.S. states with regard to its population. With over thirteen million residents, as of the 2020 census, the Commonwealth has the fifth largest population of any state in the nation. Pennsylvania also holds the nation's sixth most populous city, Philadelphia, along with Pittsburgh, the nation's sixty-eighth most populous city.<sup>1</sup> However, there is another area in which Pennsylvania's population ranks highly, and that is in homelessness. With an estimated thirteen thousand<sup>2</sup> to fifteen thousand<sup>3</sup> Pennsylvanians experiencing homelessness on any given day, the Commonwealth has the eighth highest population of people experiencing homelessness within the United States.<sup>4</sup>

While one might assume that a majority of those experiencing homelessness in Pennsylvania are located in the major cities within the Commonwealth, this is not the case. While the highest concentration of homeless individuals are located in Philadelphia, with just under six thousand people experiencing homelessness within the city on any given day<sup>5</sup>, a majority of Pennsylvania's homeless population, approximately eight thousand individuals or fifty-five percent of the total homeless population, are located within the more rural regions of the Commonwealth.<sup>6</sup> Notable hotspots of homelessness other than Philadelphia include Allegheny County, in which Pittsburgh is located, as well as Chester County, which makes up part of Philadelphia's western suburbs, and Berks County, where Reading, the Commonwealth's fourth largest city, is located.

Focusing on the City of Philadelphia, as previously mentioned, has the highest concentration of homeless individuals in the Commonwealth, with just under six thousand people experiencing homelessness within the city on any given day and just under one thousand of those individuals considered to be unsheltered. The city government does, however, claim to have "the lowest number of street homeless per capita of any of the largest cities in the United States," and the city works with nonprofit partners to provide over 11,500 emergency, temporary and permanent "beds." The city also works with nonprofits to run a homeless-to-housed program, which helps provide families and individuals with permanent housing and has an average 90% success rate in preventing a return to homelessness.<sup>7</sup>

The City of Philadelphia has not criminalized homelessness and the Philadelphia Police Department does not arrest people specifically for being homeless, nor have they criminalized sitting, occupying, or sleeping in public spaces, despite the fact that homeless individuals can be penalized

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<sup>1</sup> Data from the 2020 United States census conducted by the U.S. Census Bureau.

<sup>2</sup> According to the United States Interagency Council on Homelessness.

<sup>3</sup> According to the Pennsylvania Department of Community and Economic Development.

<sup>4</sup> Data from the United States Interagency Council on Homelessness.

<sup>5</sup> Data from the National Alliance to End Homelessness.

<sup>6</sup> According to the Pennsylvania Department of Community and Economic Development.

<sup>7</sup> Information from the City of Philadelphia Office of Homeless Services.

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for obstructing sidewalks and other public places. Panhandling is not illegal either, although there are policies in place against “aggressive panhandling” and selling items on the street without a permit that can be used against homeless individuals. Policies against urinating or defecating in public places have been used to target homeless individuals as well. Furthermore, Philadelphia does criminalize “camping” in tents or with mattresses, and those materials can be removed by police after notifying the individual using them.<sup>8</sup> This policy has been used to dismantle dozens of homeless encampments and so-called “tent cities” since the mayorship of Wilson Goode in the 1980s, and the administration of the incumbent mayor, Jim Kenney, has already dismantled more than half a dozen camps to date.<sup>9</sup>

Following Philadelphia, the second highest concentration of homeless individuals in the Commonwealth can be found in Allegheny County, in which Pennsylvania’s other major city, Pittsburgh, can be found. Focusing specifically on the City of Pittsburgh, the city in recent decades has implemented numerous policies that have sought to criminalize the behaviors associated with homelessness without explicitly criminalizing homelessness itself. The most notable anti-homeless policy implemented by Pittsburgh is the city’s panhandling ordinance, which not only outlaws “aggressive panhandling” but also criminalizes begging in particular public areas and has even hindered the ability of charities to ask for money in public. Other policies enacted by the City of Pittsburgh prohibit bathing in public waters, camping in public places, and obstructing sidewalks and other public places. These policies, combined with difficulty in accessing services that can assist people experiencing homelessness, has resulted in Pittsburgh being referred to as one of the worst cities to be homeless in.<sup>10</sup>

It should be noted that some municipalities have ordinances in place that are decades old and are no longer enforced, as is the case in Upper Providence township where a 1960s law banning vagrancy had been unenforced for years as the township’s chief of police was unaware the rule even existed.<sup>11</sup> However, many of these laws and regulations are still in effect, and the effect these laws have on those experiencing homelessness is worsened by the fact that resources and services that assist homeless individuals can often be harder to access for those outside of the major cities. An example of this difficulty to access resources can be seen in York County, just south of the state capitol Harrisburg, where a lack of funding for homeless assistance programs has contributed to a virtual doubling of the county’s homeless population within a year.<sup>12</sup>

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<sup>8</sup> Information from the City of Philadelphia Office of Homeless Services.

<sup>9</sup> According to the Philadelphia local newsletter Billy Penn, part of the publicly-funded media organization WHYY. Article by investigative reporter Max Marin.

<sup>10</sup> According to a joint report by the National Coalition for the Homeless and the National Law Center on Homelessness and Poverty.

<sup>11</sup> Information from Pennsylvania statewide newsletter Keystone Crossroads, part of the publicly-funded media organization WHYY. Article by reporter Emily Previti.

<sup>12</sup> According to local news outlet FOX43. Article by journalist Rachel Yonkunas.

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## 2. HOMELESSNESS IN SAN FRANCISCO, CALIFORNIA

BY JANE MERCER

Homelessness is a rampant problem within the United States, yet it does not occur evenly across the whole country. California, for instance, comprises 12% of the United States' population, yet 22% of the population experiencing homelessness.<sup>13</sup> The prevalence of homelessness in California increased 6.8% from 2019 to 2020.<sup>14</sup> One specific hotspot in California for homelessness is San Francisco. Although the city is “widely considered a national leader in responding to homelessness... the city also leads the nation in developing ordinances banning life-sustaining activities, with 23 laws prohibiting sitting, sleeping, standing, and begging—9 more than the average California city.”<sup>15</sup> While San Francisco has made improvements with its approach to addressing homelessness, it is clear that there is still a great amount of work to be done.

Despite having the public reputation of a city with a high tolerance for homelessness, San Francisco has several laws in place that prohibit basic human activities, such as sleeping and practicing basic hygiene. For example, Section 168 within the San Francisco Police Code, the city's Civil Sidewalk Ordinance, makes it illegal in most cases “to sit or lie on a public sidewalk, or on an object placed on a public sidewalk, between 7AM and 11PM.”<sup>16</sup> This law, known as a sit-lie ordinance, criminalizes sleeping or resting during daylight hours on the sidewalk or on any structure, such as a park bench. Exceptions to this law include persons who are experiencing a medical emergency, or those celebrating at a festival or parade. These deviations prove that San Francisco's Civil Sidewalk Ordinance specifically targets the homeless, and does not apply to all citizens equitably.

Many interactions between the police and individuals experiencing homelessness lead to citations and sometimes fines or imprisonment. If an officer of the San Francisco Police Department (SFPD) sees someone violating the sit-lie ordinance, they first ask the individual to get up and leave the area. If the individual does not, or is unable to do so, the officer can then issue a citation. After the first citation, punishment increases incrementally. For example, if the same person is given a second citation within a 24-hour period, the ordinance states that they should then be charged with a misdemeanor, and in some cases fines of up to \$500 and 10 days in jail. If they are found repeating again within 120 days, the individual can face up to 30 days in jail.<sup>17</sup> The sit-lie ordinance was put

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<sup>13</sup> *Homelessness increased 6.8% in California from 2019 to 2020*. State of Reform. (2021, March 23). <https://stateofreform.com/featured/2021/03/homelessness-increased-6-8-in-california-from-2019-to-2020>

<sup>14</sup> *Homelessness increased 6.8% in California from 2019 to 2020*. State of Reform. (2021, March 23). <https://stateofreform.com/featured/2021/03/homelessness-increased-6-8-in-california-from-2019-to-2020>

<sup>15</sup> Housing + Shelter | San Francisco Human Services Agency. (n.d.). *Housing + Shelter*. Department of Homelessness and Supportive Housing. <https://www.sfhhsa.org/services/housing-shelter>.

<sup>16</sup> *Civil Sidewalks Ordinance*. Civil Sidewalks Ordinance | Police Commission. (n.d.). <https://sfgov.org/policecommission/civil-sidewalks-ordinance>

<sup>17</sup> Zambrano, L. (2018, December 6). *San Francisco's SIT/lie ordinance: Criminalizing homelessness for cleaner streets*. San Francisco's Sit/Lie Ordinance: Criminalizing Homelessness for Cleaner Streets. <https://foundationsoflawandsociety.wordpress.com/2018/12/06/san-franciscos-sit-lie-ordinance-criminalizing-homelessness-for-cleaner-streets/>



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into law in 2010, and citations peaked in 2013, but have since been in a decrease since 2018. The policy since 2018 from SFPD has been more focused on redirecting homeless individuals towards shelters, but the legal ordinances are still in place.<sup>18</sup>

Laws directly targeting homelessness, such as the ones in place in San Francisco, violate international human rights law. The Office of the United Nations High Commissioner for Human Rights, or OHCHR, has declared that the right to adequate housing is a universal human right. Within this document, the UN has made clear that “the States’ obligations towards the full realization of the right to adequate housing include taking measures to prevent homelessness.”<sup>19</sup> The laws in San Francisco do not recognize adequate housing as a human right. Instead, their police department punishes people who are experiencing homelessness, as opposed to assisting with increasing the accessibility of housing. Additionally, instead of “taking measurements to prevent homelessness,” SFPD is significantly more likely to cite, fine, or detain persons experiencing homelessness instead of redirecting them towards supportive resources. For these reasons, San Francisco’s laws on homelessness are in violation of international human rights law.

San Francisco has a Department of Homelessness and Supportive Housing (SFHSH)<sup>20</sup> within their Human Services Agency, which is a municipal service meant to assist people living in poverty who may be experiencing homelessness. SFHSH has a digital service guide on their website to best recommend services available, and specifically tailored to individual needs. These services have a wide range, and fall under umbrellas such as food, shelter, showers and restrooms, financial assistance, jobs, domestic violence, internet, LGBTQIA+, and rental assistance. Recently, a section for COVID-19 resources has been added here. Notably missing from this guide is legal assistance and aid for arrest or citations.<sup>21</sup> Although this website tool includes extensive resources and can be personalized per individual, there are the obvious barriers of lack of access to technology, as well as a lack of digital literacy within communities with high rates of homelessness, that may limit the reach of this resource.

While these services seem helpful in theory, they are being grossly underused. In a study done by the Coalition on Homelessness, 74% of respondents reported having interacted with a SFPD officer during a time in which they were experiencing homelessness. Out of this 74%, only 11% were referred to services such as shelters or food banks. The study determined that an individual experiencing homelessness in San Francisco is ten times more likely to receive some sort of citation

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<sup>18</sup> Bulwa, D., Andersen, T., & Cassidy, M. (2018, October 22). *The scanner: SF police have backed off controversial 'sit/lie' citations*. San Francisco Chronicle. <https://www.sfchronicle.com/crime/article/The-Scanner-SF-police-have-backed-off-13322561.php>

<sup>19</sup> United Nations. (n.d.). *The Right to Adequate Housing*. Office of the United Nations High Commissioner for Human Rights. [https://ohchr.org/Documents/Publications/FS21\\_rev\\_1\\_Housing\\_en.pdf](https://ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf)

<sup>20</sup> *Civil Sidewalks Ordinance*. Civil Sidewalks Ordinance | Police Commission. (n.d.) <https://sfgov.org/policecommission/civil-sidewalks-ordinance>

<sup>21</sup> Bulwa, D., Andersen, T., & Cassidy, M. (2018, October 22). *The scanner: SF police have backed off controversial 'sit/lie' citations*. San Francisco Chronicle. <https://www.sfchronicle.com/crime/article/The-Scanner-SF-police-have-backed-off-13322561.php>

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than they are to be referred to available services.<sup>22</sup> In summation, San Francisco has a lot of work to do when it comes to addressing homelessness. They do have services available and more of a focus on assistance within recent years, but the laws in place currently violate international human rights law, and are very punitive. In order for San Francisco to uphold human rights, they need to amend these laws, and place more emphasis on community initiatives and services to combat homelessness, instead of penalizing the homeless population for simply existing.

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<sup>22</sup> Urban Issues. (2020, August 11). *Criminalization fails to end homelessness in San Francisco*. Housing Matters. Retrieved November 5, 2021, from <https://housingmatters.urban.org/research-summary/criminalization-fails-end-homelessness-san-francisco>.

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## 3. HOMELESSNESS IN SEATTLE, WASHINGTON

BY WARDA BUTT

Inadequate housing and criminalization of homelessness done through city ordinances is a predicament to those without homes and violates the provisions within the *Universal Declaration of Human Rights*.<sup>23</sup> These ordinances are implemented to remove the appearance of homelessness in the respective cities and are justified in ‘protecting’ the public interest. Criminalization laws are inhumane to the homeless population and counterintuitive to larger issues at hand. Cities do not approach the prevalence of homelessness in a productive solution-based manner, and instead criminalize homelessness in order to solely protect the outward and superficial appearance of a city.

In coordination with King County and Seattle city government, found a total of 11,751 people are experiencing homelessness countywide. Of those homeless, 53 percent (6,173 people) are sheltered and 47 percent (5,578 people) are unsheltered, increasing 5% from the last report.<sup>24</sup> After the COVID-19 pandemic, research conducted by Seattle Pacific University and University of Washington found that the number of tents used as housing by the homeless increased 50 percent.<sup>25</sup> Furthermore, different forms of homelessness exist in Seattle. Along with homelessness in the public, many people experiencing homelessness in King County and Seattle live in emergency shelters, vehicles, and temporary housing<sup>26</sup>. Amongst those 35 percent living in emergency housing, 23 percent live in vehicles, and 18 percent live in the streets.

Seattle has the following ordinances which criminalize homelessness<sup>27</sup>:

### 18.12.250 Camping

It is unlawful to camp in any park except at places set aside and posted for such purposes by the Superintendent.

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<sup>23</sup> Universal Declaration of Human Rights

<https://www.un.org/en/about-us/universal-declaration-of-human-rights>

<sup>24</sup> The Seattle Times. “See How Seattle’s Homelessness Crisis Stacks Up Across the Country and Region”  
Published June 2021

<https://projects.seattletimes.com/2021/project-homeless-data-page/>

<sup>25</sup> University of Washington. “Tents in Seattle Increased More Than 50% After Covid Pandemic Began, survey says”  
Published April 2021.

<https://depts.washington.edu/urbanuw/news/tents-in-seattle-increased-by-more-than-50-after-covid-pandemic-began-survey-says/>

<sup>26</sup> The Seattle Times. “See How Seattle’s Homelessness Crisis Stacks Up Across the Country and Region”  
Published June 2021

<https://projects.seattletimes.com/2021/project-homeless-data-page/>

<sup>27</sup> Seattle Municipal Code

<https://library.municode.com/search?stateId=47&clientId=4286&searchText=traffic%2072%20hour&co%20tentTypeId=CODES>

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(Ord. 106615 § 13, 1977.)

*Prohibiting camping in public spaces limits to homeless people to solely camp in encampments established by the city, but those encampments are usually not substantive and can overflow.*

**15.48.040 - Sitting or lying down on public sidewalks in downtown and neighborhood commercial zones**

A. Prohibition. A person shall not sit or lie down upon a public sidewalk, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk, during the hours between 7 a.m. and 9 p.m. in the following zones:

1. The Downtown Zone, defined as the area bounded by the Puget Sound waterfront on the west, South Jackson Street on the south, Interstate 5 on the East, and Denny Way and Broad Street on the North;
2. Neighborhood Commercial Zones, defined as areas zoned as Pioneer Square Mixed (PSM), International District Mixed (IDM), Commercial 1 (C1), Commercial 2 (C2), Neighborhood Commercial 1 (NC1), Neighborhood Commercial 2 (NC2), and Neighborhood Commercial 3 (NC3).

*Restrictions of sitting or lying down on sidewalks or commercial areas is a direct form of criminalization against the homeless. With a transient life, the homeless can be penalized for simply existing in the city when they have nowhere else to shelter.*

**11.72.025 - Parking: Alley—Driveway.**

No person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property. (RCW 46.90.433(2))

(Ord. 108200, § 2(11.72.025), 1979.)

**11.72.440 - Parking Enforcement; Seventy-two (72) hours.**

A. Official signs, including temporary signs, that prohibit stopping, standing or parking shall be enforceable according to their terms twenty-four hours after posting.

B. No person shall park a vehicle on any street or other municipal property for a period of time longer than seventy-two (72) hours, unless an official posted sign provides a shorter period of time, or unless otherwise provided by law.

(Ord. 122274, § 3, 2006; Ord. 120573, § 1, 2001; Ord. 120097 § 1, 2000; Ord. 112113 § 2, 1985; Ord. 108200, § 2(11.72.440), 1979.)

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## 12A.12.015 - Pedestrian interference

The following definitions apply in this Section 12A.12.015: *Pedestrian interference for Seattle is listed as the following*:

1. "Aggressively beg" means to beg with the intent to intimidate another person into giving money or goods.
2. "Intimidate" means to engage in conduct which would make a reasonable person fearful or feel compelled.
3. "Beg" means to ask for money or goods as a charity, whether by words, bodily gestures, signs, or other means.
4. "Obstruct pedestrian or vehicular traffic" means to walk, stand, sit, lie, or place an object in such a manner as to block passage by another person or a vehicle, or to require another person or a driver of a vehicle to take evasive action to avoid physical contact. *Pedestrian interference is a misdemeanor and prohibits the homeless from having the choice to ask for monetary help.*

Overall, Seattle's restrictive laws that criminalize homelessness violate the human rights all people are entitled to. Instead of placing these restrictive ordinances, city councils and governments need to focus on amending these human right violations and focus on implementing action plans to eradicate the reasons for why homelessness exists in the first place. The blame should not be burdened on those experiencing homelessness; rather, the city councils have an obligation to promote policies and programs to aid those with no other options but to sleep on the street.

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## 4. HOMELESSNESS IN FLORIDA

BY BRENDAN LAWLOR

Imagine not being able to sleep, sit down, or ask for food without being arrested. This may seem like a foreign concept, but to Kenneth Shultz and tens of thousands of other homeless individuals, this is their daily life. In the past nine years, Shultz has spent one in every three days in jail, has been charged with trespassing 96 times and has incurred a debt of \$41,311 because his only option is to sleep behind gas stations and public parks.<sup>28</sup> In the area Shultz lives—Okaloosa County, FL—there are only 84 beds for 399 homeless people, making it virtually impossible to find alternative housing solutions.<sup>29</sup> Shultz’s story is accompanied by thousands of others due to a proliferation of laws in the United States that criminalize necessary acts of life. The state of Florida is no different, with state and municipal laws banning sleeping, eating, begging, and camping to seemingly outlaw homeless individuals’ very existence and cut the last thread they have to their life, dignity, and humanity.<sup>30</sup>

On the state level, laws are on the books that criminalize panhandling, camping, and simply existing. Homeless individuals are prohibited from asking for “charitable donations” on the side of any travelable roads<sup>31</sup> and are barred from setting up any type of temporary residence within 100 feet of a “bridge, causeway, overpass, or ramp”.<sup>32</sup> Additionally, Florida state laws on nuisances and disorderly conduct are extraordinarily vague, referring to the crimes as instances that “annoy the community”<sup>33</sup> or “affect the peace and quiet of persons”.<sup>34</sup> Because these laws are so broad, the National Law Center on Homelessness & Poverty has shown that they can be used to “exclude homeless people from public view” by providing police officers with wide discretion to make arrests; a homeless person can be arrested for the simple act of existing.<sup>35</sup> If a homeless person violates any

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<sup>28</sup> The Associated Press, “Cities try to arrest their way out of homeless problems,” published on June 29 2020, <https://www.baynews9.com/fl/tampa/ap-online/2020/06/29/cities-try-to-arrest-their-way-out-of-homeless-problems>

<sup>29</sup> Ryan E. Little et al., “In many cities, it’s illegal to beg for food or money,” Nowhere to Go, Published on June 29, 2020, <https://homeless.cnsmaryland.org/2020/06/29/illegal-to-beg-for-food/>

<sup>30</sup> United States Interagency Council on Homelessness, “Searching Out Solutions: Constructive Alternatives to the Criminalization of Homelessness,” 2012, [https://www.usich.gov/resources/uploads/asset\\_library/RPT\\_SoS\\_March2012.pdf](https://www.usich.gov/resources/uploads/asset_library/RPT_SoS_March2012.pdf)

<sup>31</sup> See § 337.406 of the Florida Statutes, <http://www.leg.state.fl.us/Statutes/index.cfm?Mode=View%20Statutes&Submenu=1&Tab=statutes>

<sup>32</sup> *ibid.*

<sup>33</sup> See § 887.01 of the Florida Statutes, <http://www.leg.state.fl.us/Statutes/index.cfm?Mode=View%20Statutes&Submenu=1&Tab=statutes>

<sup>34</sup> See § 887.03 of the Florida Statutes, <http://www.leg.state.fl.us/Statutes/index.cfm?Mode=View%20Statutes&Submenu=1&Tab=statutes>

<sup>35</sup> National Law Center on Homelessness & Poverty, “Housing not Handcuffs 2019: Ending the Criminalization of Homelessness in U.S. Cities,” Published in December 2019, <https://homelesslaw.org/wp-content/uploads/2019/12/HOUSING-NOT-HANDCUFFS-2019-FINAL.pdf>

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of these laws, they are compelled to pay a fine of up to \$500 and can be jailed for up to 60 days.<sup>36</sup> Furthermore, Florida criminalizes being an unhoused minor, making it illegal to “remain in a public space” between 11:00 PM and 5:00 AM on the weekdays and 12:00 PM and 6:00 AM on the weekends.<sup>37</sup> Because unhoused minors cannot remain on public property during these hours, they are unable to legally sleep since they are also restricted from private property. A minor must pay \$50 per violation after their first warning.<sup>38</sup> It is evident that the State of Florida criminalizes being homeless by criminalizing essential life activities.

To gain a comprehensive understanding of these egregious violations, it is imperative to analyze the laws of the counties with the three biggest homeless population: Hillsborough, Pasco, and Broward. In Hillsborough, there is a staggering homeless population of 7,336 people.<sup>39</sup> Here, it is illegal to be “within four feet of the edge of the road for the purpose of...soliciting charitable contributions”.<sup>40</sup> The county also uses a very broad definition of public parks to ban sleeping on benches: “construct[ing] or erect[ing] any building or structure of any kind on playgrounds, trails, open green spaces, beaches, public service facilities and water areas”.<sup>41</sup> If an unhoused person violates these laws, they are fined up to \$600 and could face up to 60 days in jail.<sup>42</sup> In Pasco County, with a homeless population of 4,502,<sup>43</sup> the county criminalizes homelessness by having a broad definition of what constitutes a public nuisance. The ordinance defines a public nuisance as a place where there has been “repeated disturbances of the peace” that “in such a manner as to adversely and unreasonably affect the comfortable enjoyment of adjoining property”.<sup>44</sup> With such a broad definition, this ordinance allows police to arrest homeless men and women with only a few public complaints.<sup>45</sup> Pasco County also seeks to criminalize homeless individuals for creating temporary

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<sup>36</sup> See § 775.083 & § 775.082 of the Florida Statutes, <http://www.leg.state.fl.us/Statutes/index.cfm?Mode=View%20Statutes&Submenu=1&Tab=statutes>

<sup>37</sup> See § 877.22 of the Florida Statutes, <http://www.leg.state.fl.us/Statutes/index.cfm?Mode=View%20Statutes&Submenu=1&Tab=statutes>

<sup>38</sup> *ibid.*

<sup>39</sup> Katie Sanders, “Pasco County has second highest homeless population in Florida, advocate claims,” PolitiFact, Published on April 10 2013, <https://www.politifact.com/factchecks/2013/apr/10/brian-anderson/pasco-county-has-states-second-highest-homeless-po/>

<sup>40</sup> See § 42.23 of the Hillsborough County Code of Ordinances, [https://library.municode.com/fl/hillsborough\\_county/codes/code\\_of\\_ordinances\\_part\\_a](https://library.municode.com/fl/hillsborough_county/codes/code_of_ordinances_part_a)

<sup>41</sup> See § 38.24 of the Hillsborough County Code of Ordinances, [https://library.municode.com/fl/hillsborough\\_county/codes/code\\_of\\_ordinances\\_part\\_a](https://library.municode.com/fl/hillsborough_county/codes/code_of_ordinances_part_a)

<sup>42</sup> See § 775.083 & § 775.082 of the Florida Statutes, <http://www.leg.state.fl.us/Statutes/index.cfm?Mode=View%20Statutes&Submenu=1&Tab=statutes>

<sup>43</sup> Katie Sanders, “Pasco County has second highest homeless population in Florida, advocate claims,” PolitiFact, Published on April 10 2013, <https://www.politifact.com/factchecks/2013/apr/10/brian-anderson/pasco-county-has-states-second-highest-homeless-po/>

<sup>44</sup> See § 42.30 of the Pasco County Code of Ordinances, [https://library.municode.com/fl/pasco\\_county/codes/code\\_of\\_ordinances?nodeId=PTIC0OR\\_CH660FMIPR\\_ARTVITRWAPUPR\\_S66-157AP](https://library.municode.com/fl/pasco_county/codes/code_of_ordinances?nodeId=PTIC0OR_CH660FMIPR_ARTVITRWAPUPR_S66-157AP)

<sup>45</sup> National Law Center on Homelessness & Poverty, “Housing not Handcuffs 2019: Ending the Criminalization of Homelessness in U.S. Cities,” Published in December 2019, <https://homelesslaw.org/wp-content/uploads/2019/12/HOUSING-NOT-HANDCUFFS-2019-FINAL.pdf>

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shelter, making it a trespassing charge if they do not immediately leave public property—defined as “any property generally used by the public”—when told to by police. The police also do not have to provide a specific reason for making them leave besides the fact that they are trespassing.<sup>46</sup> If an unhoused person violates these laws, they can be fined up to \$600 and could face up to 60 days in jail. <sup>47</sup> Furthermore, it is “unlawful to solicit or attempt to solicit...contributions [or] donations...of any kind, from the driver or an occupant of a motor vehicle” with a homeless person being charged a fine of up to \$500 if this ordinance is violated.<sup>48</sup> Broward county, having a homeless population of 3,801,<sup>49</sup> criminalizes homelessness by prohibiting setting “up tents, shacks or any other temporary shelter”<sup>50</sup> and outlawing homeless individuals from sleeping in their cars by prohibiting “parking for a period of time longer than thirty (30) minutes between the hours of 2:00 a.m. and 5:00 a.m.”.<sup>51</sup> For each violation of these crimes, a person can face a fine of up to \$250.<sup>52</sup> The counties with the biggest homeless populations in Florida have laws in place that criminalize the everyday, essential acts homeless people need to do to survive. The criminalization of these behaviors is directly and drastically harming the unhoused population within the state of Florida, as these laws are essentially outlawing the very act of having no other options than to be homeless.

In addition to state statutes and county laws, specific city laws must also be analyzed to understand the pervasiveness of public policies and ordinances that criminalize homelessness in Florida. In all regions of Florida, cities have enacted strict measures designed to specifically target the homeless. For instance, in Miami, it is illegal to panhandle in tourist-heavy areas,<sup>53</sup> while in St. Petersburg it is illegal to panhandle anywhere within the city limits.<sup>54</sup> Orlando takes a hard stance against the homeless, as they are criminalizing camping,<sup>55</sup> sleeping in public facilities,<sup>56</sup> begging on

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<sup>46</sup> See § 66.157 of the Pasco County Code of Ordinances, [https://library.municode.com/fl/pasco\\_county/codes/code\\_of\\_ordinances?nodeId=PTIC0OR\\_CH66OFMIPR\\_ARTVITRWAPUPR\\_S66-157AP](https://library.municode.com/fl/pasco_county/codes/code_of_ordinances?nodeId=PTIC0OR_CH66OFMIPR_ARTVITRWAPUPR_S66-157AP)

<sup>47</sup> See § 775.083 & § 775.082 of the Florida Statutes, <http://www.leg.state.fl.us/Statutes/index.cfm?Mode=View%20Statutes&Submenu=1&Tab=statutes>

<sup>48</sup> See § 82.1 of the Pasco County Code of Ordinances, [https://library.municode.com/fl/pasco\\_county/codes/code\\_of\\_ordinances?nodeId=PTIC0OR\\_CH66OFMIPR\\_ARTVITRWAPUPR\\_S66-157AP](https://library.municode.com/fl/pasco_county/codes/code_of_ordinances?nodeId=PTIC0OR_CH66OFMIPR_ARTVITRWAPUPR_S66-157AP)

<sup>49</sup> Katie Sanders, “Pasco County has second highest homeless population in Florida, advocate claims,” PolitiFact, Published on April 10 2013, <https://www.politifact.com/factchecks/2013/apr/10/brian-anderson/pasco-county-has-states-second-highest-homeless-po/>

<sup>50</sup> See § 25.1 of the Broward County Code of Ordinances, [https://library.municode.com/fl/broward\\_county/codes/code\\_of\\_ordinances](https://library.municode.com/fl/broward_county/codes/code_of_ordinances)

<sup>51</sup> See § 23.20 of the Broward County Code of Ordinances, [https://library.municode.com/fl/broward\\_county/codes/code\\_of\\_ordinances](https://library.municode.com/fl/broward_county/codes/code_of_ordinances)

<sup>52</sup> *ibid.*

<sup>53</sup> National Coalition for the Homeless, “The 10 Most Ridiculous Anti-Homeless Laws-Part II,” Published on July 26, 2011, <https://nationalhomeless.org/10-ridiculous-anti-homeless-laws-part-ii/>

<sup>54</sup> *ibid.*

<sup>55</sup> See § 43.52 of Code of Ordinances City of Orlando, Florida, [https://library.municode.com/fl/orlando/codes/code\\_of\\_ordinances](https://library.municode.com/fl/orlando/codes/code_of_ordinances)

<sup>56</sup> See § 43.64 of Code of Ordinances City of Orlando, Florida, [https://library.municode.com/fl/orlando/codes/code\\_of\\_ordinances](https://library.municode.com/fl/orlando/codes/code_of_ordinances)



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the sides of roads,<sup>57</sup> food sharing,<sup>58</sup> and lying down on sidewalks and using a blanket in the Downtown Core District.<sup>59</sup> Any violation of these ordinances results in a fine of up to \$500 and/or a jail sentence of up to 60 days.<sup>60</sup> West Palm Beach recently passed an ordinance that prohibits “panhandling and soliciting, camping/sleeping in public areas, and public indecency” because these activities “threaten the aesthetic beauty and public health and safety,” showing that it is more important for an area to look pleasing than to help the people that need it the most.<sup>61</sup> The City of Daytona Beach, where even though there is a shortage of 366<sup>62</sup> emergency beds to house all the homeless individuals, it is illegal to camp, but only if “the violator is asleep and when awakened he/she volunteers that he/she has no home or other permanent shelter,”<sup>63</sup> and “sleep on any of the city streets or sidewalks...between the hours of 11:00 p.m. and 6:00 a.m.”<sup>64</sup> The City of Daytona Beach has also strategically banned panhandling within certain areas, such as 20 feet from a business entrance, bus stop or public restroom,<sup>65</sup> but goes so far by banning so many areas that it “collectively add[s] up to effectively banning the practice in the entire city”.<sup>66</sup> These violators will then face up to \$500 in fines and 60 days in jail. These cases show that city laws can fill in the holes left by county and state law, creating a complex web of prohibitions that have one goal—making it illegal, in every possible aspect, to be homeless.

To exacerbate these deleterious realities, homeless individuals in Florida cannot depend on the U.S. court system to protect them. While other U.S. Circuits have ruled to protect the rights of the

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<sup>57</sup> See § 43.06 of Code of Ordinances City of Orlando, Florida, [https://library.municode.com/fl/orlando/codes/code\\_of\\_ordinances](https://library.municode.com/fl/orlando/codes/code_of_ordinances)

<sup>58</sup> National Law Center on Homelessness & Poverty, “No Safe Place: The Criminalization of Homelessness in U.S. Cities,” 2019, [https://homelesslaw.org/wp-content/uploads/2019/02/No\\_Safe\\_Place.pdf](https://homelesslaw.org/wp-content/uploads/2019/02/No_Safe_Place.pdf)

<sup>59</sup> See § 43.88 of Code of Ordinances the City of Orlando, Florida, [https://library.municode.com/fl/orlando/codes/code\\_of\\_ordinances](https://library.municode.com/fl/orlando/codes/code_of_ordinances)

<sup>60</sup> National Law Center on Homelessness & Poverty, “No Safe Place: The Criminalization of Homelessness in U.S. Cities,” 2019, [https://homelesslaw.org/wp-content/uploads/2019/02/No\\_Safe\\_Place.pdf](https://homelesslaw.org/wp-content/uploads/2019/02/No_Safe_Place.pdf)

<sup>61</sup> Tony Doris, “A great tool or a bad look? Proposed West Palm law would cite homeless for 'aesthetics',” The Palm Beach Post, Published on December 19 2020, <https://www.palmbeachpost.com/story/news/local/westpb/2020/12/19/west-palm-gives-initial-ok-law-targeting-homeless-aesthetics/3930689001/>

<sup>62</sup> Ryan E. Little et al., “In many cities, it’s illegal to beg for food or money,” Nowhere to Go, Published on June 29, 2020, <https://homeless.cnsmaryland.org/2020/06/29/illegal-to-beg-for-food/>

<sup>63</sup> See § 86.42 of Code of Ordinances City of Daytona Beach, Florida, [https://library.municode.com/fl/daytona\\_beach/codes/code\\_of\\_ordinances](https://library.municode.com/fl/daytona_beach/codes/code_of_ordinances)

<sup>64</sup> See § 86.32 of Code of Ordinances City of Daytona Beach, Florida, [https://library.municode.com/fl/daytona\\_beach/codes/code\\_of\\_ordinances](https://library.municode.com/fl/daytona_beach/codes/code_of_ordinances)

<sup>65</sup> See § 66.01 of Code of Ordinances City of Daytona Beach, Florida, [https://library.municode.com/fl/daytona\\_beach/codes/code\\_of\\_ordinances](https://library.municode.com/fl/daytona_beach/codes/code_of_ordinances)

<sup>66</sup> National Law Center on Homelessness & Poverty, “Housing not Handcuffs 2019: Ending the Criminalization of Homelessness in U.S. Cities,” Published in December 2019, <https://homelesslaw.org/wp-content/uploads/2019/12/HOUSING-NOT-HANDCUFFS-2019-FINAL.pdf>

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unhoused to sleep in public,<sup>67</sup> in their cars,<sup>68</sup> or in any other “involuntary symptom of a status,”<sup>69</sup> the U.S. The Court of Appeals for Florida has ruled it unlawful for anyone to sleep or camp in any “public or semi-public area”.<sup>70</sup> Furthermore, to circumvent The U.S. Supreme Court ruling allowing panhandling,<sup>71</sup> Florida cities hire special consultants to craft ordinances that can survive, showing these laws are intentionally written to target the homeless.<sup>72</sup> In Florida, there is no universal protection of homeless rights in the courts, but rather a patchwork of protection. For example, the federal courts have struck down anti-panhandling laws in Tampa and Fort Lauderdale, but not in Daytona Beach, portraying “the pervasive nature of criminalization policies and the broad power of government” to write these ordinances even when litigation against it is successful.<sup>73</sup> Unhoused Floridians in 2019 lost a powerful protection when the *Pottinger* Agreement<sup>47</sup> was struck down, removing the most useful tool Florida had to stop the criminalization of the homeless.<sup>74</sup>

As the aforementioned strongly elucidates, it is undeniable that in every part of Florida, and at every level of government within the state, the 28,328 Floridians who are homeless are viewed as criminals.<sup>75</sup> To this end, this research stands with Raquel Ronik,<sup>76</sup> Magdalena Sepúlveda Carmona,<sup>77</sup> Catarina de Albuquerque,<sup>78</sup> and Doudou Diéne<sup>79</sup> to highlight the way homelessness is being criminalized in the United States, and vehemently condemns it.<sup>53</sup> Florida cities are increasingly turning towards the criminal justice system to punish people living on the street as they do not have enough affordable housing or shelters to constructively address the crisis.<sup>80</sup> Because of this, homeless individuals are being arrested for eating in public, lying down on a park bench, asking for donations

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<sup>67</sup> See *Martin v. City of Boise*, 920 F.3d 584 (9<sup>th</sup> Cir. 2019).

<sup>68</sup> See *Desertrain v. City of Los Angeles*, 754 F.3d 1147 (9<sup>th</sup> Cir. 2014).

<sup>69</sup> See *Manning v. Caldwell*, 930 F.3d 264 (4<sup>th</sup> Cir. 2019).

<sup>70</sup> See *Joel v. City of Orlando*, 247 F.3d 14535 (11<sup>th</sup> Cir. 2000).

<sup>71</sup> See *Reed v. Town of Gilbert*, 135 S.Ct. 2218 (2015).

<sup>72</sup> Ryan E. Little et al., “In many cities, it’s illegal to beg for food or money,” *Nowhere to Go*, Published on June 29, 2020, <https://homeless.cnsmaryland.org/2020/06/29/illegal-to-beg-for-food/>

<sup>73</sup> National Law Center on Homelessness & Poverty, “Housing not Handcuffs 2019: Ending the Criminalization of Homelessness in U.S. Cities,” Published in December 2019, <https://homelesslaw.org/wp-content/uploads/2019/12/HOUSING-NOT-HANDCUFFS-2019-FINAL.pdf>

<sup>74</sup> David Stuzin, “Criminalization of Homelessness: Eleventh Circuit Affirms Dissolution of Pottinger Agreement,” Published on October 18 2020, <https://lawreview.law.miami.edu/criminalization-homelessness-eleventh-circuit-affirms-dissolution-pottinger-agreement/>

<sup>75</sup> The Center Square, “Florida homeless population numbered 28,328 last year, study finds,” Published on January 6 2021, [https://www.thecentersquare.com/florida/florida-homeless-population-numbered-28-328-last-year-study-finds/article\\_171c4698-5083-11eb-bd47-e75ef36605ca.html](https://www.thecentersquare.com/florida/florida-homeless-population-numbered-28-328-last-year-study-finds/article_171c4698-5083-11eb-bd47-e75ef36605ca.html)

<sup>76</sup> Former Special Rapporteur on the Right to Adequate Housing

<sup>77</sup> Former Special Rapporteur on Extreme Poverty

<sup>78</sup> Former Special Rapporteur on the Right to Water and Sanitation

<sup>79</sup> Former Special Rapporteur on Racism

<sup>80</sup> Raquel Rolnik, “Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context,” United Nations Human Rights Office of the High Commissioner, Published on December 30 2013.

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to afford necessities, and for sleeping in a tent on a sidewalk. They are arrested because they are human, participating in necessary human functions within a system that has failed them.

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## 5. HOMELESSNESS IN SAN DIEGO, CALIFORNIA

BY STEPHEN BAKER

Much of San Diego's legislation surrounding homelessness centers on anti-lodging, anti-squatting, or otherwise anti-unhoused foundations. Illegal lodging laws and ordinances criminalize the existence of the unhoused population.

Although these laws do not specifically name unhoused people, the intent and effect have shown the legislation has effectively and overwhelmingly affected those who are affected by homelessness. Enforcing laws that target a specific marginalized community, and in many cases criminalizing their existence, is a human rights violation.

San Diego legislation on homelessness includes:

**PC 647(c)** *Any person who accosts other persons in any public place or in any place open to the public for the purpose of begging or soliciting alms is guilty of a misdemeanor.*

**PC 647(e)** *Any person who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it is guilty of a misdemeanor.*

**PC 647(f)** *Any person who is found in any public place under the influence of intoxicating (substances)... in a condition that they are unable to exercise care for their own safety or the safety of others (will be placed in civil protective custody) not thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to this placement...*

**PC 647(h)** *Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant. As used in this subdivision, "loiter" means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.*

**§63.0101 Use of Playgrounds and Recreation Areas** *(12) Overnight Camping. It is unlawful to camp, lodge, sleep, or tarry overnight; provided, however, that nothing in Section 63.0102(b)(12) prohibits any person from being or remaining in any park while in attendance at any function for which the City Manager has previously granted permission.*

**§54.0201 Public Hazards and Public Nuisances** *(f) The Council further declares that all weeds, waste or other obstructions found upon or in front of streets, sidewalks, and private property within the City of San Diego are public nuisances that adversely affect the public health, safety, and general welfare.*

**§54.0201: (f)** *The Council further declares that all weeds, waste or other obstructions found upon or in front of streets, sidewalks, and private property within the City of San Diego are public nuisances that adversely affect the public health, safety, and general welfare (3-hour warning required).*

These laws violate the following articles of the Declaration:

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**Article 5:** *No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.*

**Article 12:** *No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation.*

Homeless encampment evictions and sweeps homeless encampment and community members were given a three-hour notice of sweeps by law enforcement and the state that would destroy their homes. This is not a long enough time period for anyone to prepare to be removed from their place of stay, leaving them in a vulnerable position.

**PC 647e & §63.0101**

PC 647e *Any person who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it is guilty of a misdemeanor.*

§63.0101 (12) *Overnight Camping. It is unlawful to camp, lodge, sleep, or tarry overnight, and is guilty of a misdemeanor.*

These laws violate the following articles of the Declaration:

**Article 5:** *No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*

Charging one with a misdemeanor, which leads to a jail sentence of up to one full year, for being homeless is cruel, inhuman, and degrading.

**Civil Code 86.0137(f)**

§86.0137 (f): *It is unlawful for any person to use a vehicle for human habitation on any street or public property.*

These laws violate the following articles of the Declaration:

**Article 17:** *No one shall be arbitrarily deprived of his property.*

Those who reside in their vehicle as their home, whether an individual or a family, have a right to their property and a right to their life within their property, which should not be confiscated, discriminated against or deprived by the state.

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## 6. HOMELESSNESS IN OREGON

BY LINDSEY FEDEROWICZ

In the United States, homelessness is a condition, defined by the McKinney-Vento Homeless Assistance Act, in which people do not have a "fixed, regular, or adequate night-time residence."<sup>81</sup> The state of Oregon defines it as the lack of a decent, safe, stable and permanent place to live that is suitable for human life. The primary goal of many of Oregon's homelessness legislation is to address and provide more shelter and permanent housing for the homeless, as well as eventually decriminalize homelessness. However, in Portland, there are still many human rights violations in their anti-camping sweeps and increasing anti-homeless architecture. Proposed bills in Oregon's legislative houses have addressed things like waiving fees for issuing or renewing IDs, and conducting studies on homelessness in the state to provide results for Legislative Assembly committees. Oregon's legislative intent and effect have shown they are aiming towards decriminalizing homelessness and extreme poverty. In fact, it is something they are closer to than ever after passing HB 3115, a bill that mandates cities systematize laws protecting people from fines and fees for camping on public lands. However, while the state's legislation does not appear to violate human rights, Portland's lack of addressing basic human rights, like the right to adequate housing, does violate human rights.

*Martin v. Boise*, a 2018 decision by the U.S. The Court of Appeals for the Ninth Circuit, banned governments from criminalizing living in public spaces if the local government does not provide enough shelter for each homeless person. Oregon's HB 3115 mandates cities codify, or systematize, ordinances that protect homeless people from fines and fees for camping on public lands if the local government is not providing any other viable alternatives, following this court ruling. However, Portland is not following these protocols and in turn violating the basic human right to adequate housing. The Committee on Economic, Social, and Cultural Rights general comment no.4 states that<sup>82</sup> "States must take immediate steps to realize the right to adequate housing, and that priority must be given to these social groups living in unfavorable conditions."

While Portland believes their sweep protocols are in line with the law and do not conflict with the ruling, because their management of unsanctioned campsites is to protect the health and safety of both people experiencing homelessness and the community, they violate human rights standards, not allowing people to sleep on the street according to the Oregon law, the ruling of *Martin v. Boise*, and the international human right to adequate housing. Commissioner Mingus Mapps even states<sup>83</sup> "there is currently not enough shelter space or deeply affordable housing to transition every person

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<sup>81</sup> ORS 458.528 - Policy on Homelessness, [oregon.public.law/statutes/ors\\_458.528#:~:text=\(1\),is fit for human habitation.](https://www.oregonpubliclaw.com/statutes/ors_458.528#:~:text=(1),is fit for human habitation.)

"Homelessness and Human Rights." OHCHR, [www.ohchr.org/en/issues/housing/pages/homelessnessandhumanrights.aspx](https://www.ohchr.org/en/issues/housing/pages/homelessnessandhumanrights.aspx).

<sup>82</sup> Hurwitz, Sarah. "Homeless Advocates Raise Concerns over New Architecture under Morrison Bridge." KPTV.com, 13 Dec. 2018, [www.kptv.com/news/homeless-advocates-raise-concerns-over-new-architecture-under-morrison-bridge/article\\_c8c2add0-fea3-11e8-ad68-3f384860ef28.html](https://www.kptv.com/news/homeless-advocates-raise-concerns-over-new-architecture-under-morrison-bridge/article_c8c2add0-fea3-11e8-ad68-3f384860ef28.html).

<sup>83</sup> "Oregon State Legislature SearchResults." Oregon State Legislature, [www.oregonlegislature.gov/Pages/SearchResults.aspx?k=homelessness](https://www.oregonlegislature.gov/Pages/SearchResults.aspx?k=homelessness).

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off the street.” Under the International Covenant on Economic, Social and Cultural Rights,<sup>84</sup> “preventing and eliminating homelessness is a “minimum core obligation [of States] to ensure the satisfaction of, at least, minimum essential levels of each of the rights” and Portland is unsuccessful at accomplishing this. Kaia Sand, executive director of Street Roots, believes the city is wrong in resuming sweeps at any scale without giving unhoused people clear directions about where they can go, and the <sup>85</sup>“safe rest cites” the city has promised are still months from opening. Sand believes Portland needs to give homeless people maps to show where safe places are to sleep, due to the lack of organized shelters and places for homeless people to go after these sweeps.

Additionally, there has been an increasing amount of anti-homeless architecture in Portland. Under the Morrison Bridge along Southwest 1st Avenue in downtown Portland, there are rows of concrete planters. While it remains a mystery of where they came from, and the Portland DOT is not behind it, nor do they know who installed the planters along the streets, many believe it is a tactic to remove the homeless from the area. This developing anti-homeless architecture in Portland violates Oregon state laws HB 3115, as mentioned prior. Portland is currently unable to provide enough shelter or adequate, affordable housing for their homeless population. This is causing many homeless people to camp in public spaces, like under the Morrison Bridge, especially during the colder months. Portland is again violating the Committee on Economic, Social and Cultural Rights in its General Comment No. 4 and the International Covenant on Economic, Social and Cultural Rights rulings by not fulfilling a “minimum core obligation”<sup>86</sup> of preventing homelessness. In simpler words, Portland is not obliged to provide every homeless person with a home, but to ensure that everyone can access basic shelter and housing that is safe, adequate, and affordable.

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<sup>84</sup> “Oregon’s New Law to Protect Houseless Campers May Not Change Portland Policy on Sweeps.” Willamette Week, [www.wweek.com/news/city/2021/06/10/oregons-new-law-to-protect-houseless-campers-may-not-change-portland-policy-on-sweeps/](http://www.wweek.com/news/city/2021/06/10/oregons-new-law-to-protect-houseless-campers-may-not-change-portland-policy-on-sweeps/).

<sup>85</sup> “Portland’s High-Profile Sweep of a Homeless Camp at Laurelhurst Park Wasn’t the Only One.” Willamette Week, [www.wweek.com/news/city/2021/08/04/portlands-high-profile-sweep-of-a-homeless-camp-at-laurelhurst-park-wasnt-the-only-one/](http://www.wweek.com/news/city/2021/08/04/portlands-high-profile-sweep-of-a-homeless-camp-at-laurelhurst-park-wasnt-the-only-one/).

<sup>86</sup> “Search for ‘Homelessness.’” Your Government: The Oregonian, [gov.oregonlive.com/bill/search/homelessness/all/](http://gov.oregonlive.com/bill/search/homelessness/all/).

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## 7. HOMELESSNESS IN WASHINGTON, D.C.

BY LAYTH KHAN

Homelessness has proven to be a major problem in Washington D.C. Over the past year D.C. has increased its homeless population by over 20% (Moyer 2021). With the increasing surge in the homeless population coupled with the lack of optimistic progress in the fight with COVID 19 this trend does not seem to be going away any time soon. Along with the general uptick in homeless population, there is also a visible increase in unsheltered homeless people across the city. This general combination has proven to be a serious concern for the city of D.C. and an increasing point of contention for those who monitor the situation. It is for the aforementioned reasons that it is increasingly important to examine the situation of homelessness in D.C., specifically the treatment of such individuals. The treatment of homeless individuals in D.C. can be examined through the lenses of laws and regulations involving their treatment, anti-homeless architecture, and examining public treatment of the unsheltered homeless population.

When examining local laws pertaining to homelessness it often becomes a difficult task to find explicit language targeting populations. Though explicit language may be hard to find, one cannot make the assumption that all laws are free of anti-homeless bias. In D.C. a prime example of this would be measures taken by the Homeless Outreach Team (HOT). The Homeless Outreach Team was created to reach out to homeless communities and help address their problems. Though this sounds like a helpful organization on paper, when examining their operating manual, the team is directed to administer tickets or arrest the homeless for public space violations such as “storage on public space” or “temporary abode” (“Criminalization of Homelessness” 2013). Laws like these are in direct violation to international human rights laws on the rights to sleeping and access to public land. Abusing laws like these, are in direct contrast to the Universal Declaration of Human rights, which stipulate that individuals have the right to life and property and these rights cannot be changed due to any sort of social or economic status (United Nations, 1948). When one examines violations of direct UN ordinances not only can one come to the conclusion that the region of D.C. needs to adjust its laws, but even more it is acting in direct violation to international law. This direct violation is completely inexcusable for the capital of the United States and needs to be addressed immediately.

Looking beyond the letter of the law, D.C. also has a large issue with creating infrastructure that is inherently anti-homeless. Anti-homeless infrastructure largely comes in the form of architecture and design. Anti-homeless architecture is any structure that designs public spaces in a way that will deter homeless activities and life. One of the most prominent examples of Anti-homeless architecture can be found in the design of D.C. benches.<sup>87</sup> Benches that feature center arms, odd shapes or large dividers can be found throughout the D.C. area (“Types of Defensive Architecture”). Though these benches may seem friendly at first, almost all of these designs are created with the intent to prohibit the homeless population from sleeping or using those benches for comfort. This is in direct violation of the aforementioned declared human right to life. These problems span not only federal concern but private as well. Many private government-contracted

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<sup>87</sup> “Criminalization of Homelessness.” The Washington Legal Clinic for the Homeless, 24 Dec. 2013, <https://www.legalclinic.org/criminalization-of-homelessness/>.



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agencies are explicitly contracted for their “anti-vagrant” bench designs, creating a self-serving machine to continue homeless mistreatment<sup>88</sup> (“Types of Defensive Architecture”). Along with the aforementioned benches, cities also include large rigid structures under underpasses and shelters in order to deter people from sleeping. These structures often take the form of poles, spikes and rough edges to specifically impact those who want to take shelter in those areas. This is a direct violation of human rights as the city is directly impacting individuals’ rights to shelter and subsequently life.

Finally, it is important to examine public perception of homelessness. Overall statistics and evidence become meaningless if the general population does not care about an issue. This is not the case when considering homelessness. When surveyed, around 74% of Americans view extreme poverty and homelessness as an extremely important issue<sup>89</sup> (“Perceptions about Poverty and Homelessness.”). On top of that a 2016 study stated that 47% of Americans think about hunger and homelessness a great amount<sup>90</sup> (“Perceptions about Poverty and Homelessness.”). This provides an interesting insight to show that the homeless issue in D.C. is not merely a problem of ignorance but instead a problem of intentional neglect.

In conclusion, D.C. needs to address its treatment of the homeless for a variety of different ethical and legal reasons. When examining local laws and public architecture it becomes blatantly clear the city of D.C. is in violation of international law. Furthermore, upon greater examination, one can realize that this is not an issue of not knowing but instead an issue of not caring. It is for these reasons that the city of D.C. should immediately adjust their treatment of the homeless and instantly change their actions.

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<sup>88</sup> Moyer, Justin Wm. “More than a Year into Pandemic, Mixed Signals on Homelessness in D.C.” The Washington Post, WP Company, 29 Apr. 2021, [https://www.washingtonpost.com/local/dc-homeless-count/2021/04/29/0d435476-a84a-11eb-b166-174b63ea6007\\_story.html](https://www.washingtonpost.com/local/dc-homeless-count/2021/04/29/0d435476-a84a-11eb-b166-174b63ea6007_story.html).

<sup>89</sup> “Perceptions about Poverty and Homelessness.” The Opportunity Agenda, <https://www.opportunityagenda.org/explore/resources-publications/window-opportunity-ii/perceptions-poverty-homelessness>.

<sup>90</sup> “Types of Defensive Architecture.” Hidden Hostility DC, <https://www.hiddenhostilitydc.com/types>. United Nations. Universal Declaration of Human Rights. 1948.

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## 8. HOMELESSNESS IN MASSACHUSETTS

BY ELVINO DA SILVEIRA

Massachusetts is one of the top leaders in planning efforts against homelessness, and in 1983, under chapter 450, Massachusetts became a right to shelter state. Despite being ahead of some of other states, nearly 18,000 people experience homelessness on any given day<sup>91</sup>. It is quite damning of US social programs when a leader in combating homelessness still has difficulty finding housing for its residents.<sup>92</sup>

Current programs available to help homeless within Massachusetts include Section 8 housing, Transitional Aid to Families with Dependent Children (TAFDC), and emergency shelters<sup>93</sup>. The common problem between these programs is that despite having eligibility, many people, due to bureaucratic hurdles, don't have the time or funds to be able to apply:

- TAFDC (4% eligible; 1% receive)
- Section 8 housing assistance (11% eligible; 3% receive)

*Numbers are courtesy of the New England Journal of Public Policy.*

As for emergency shelters, applications are hindered by proof of income and having limited valid reasons for stay<sup>94</sup>. In addition, the availability of a shelter is extremely dependent on the county, as Berkshire county only has 3 emergency shelters, Duke county has no shelters, and Suffolk county has 39 shelters. This is the same fate suffered with many state housing options in certain counties with very few units available. Intersectionality is key in these availabilities, as C.200 and C.750 units are only family units and C.667 units are only available to the elderly with no general public housing units available. For many counties, they have one type of unit available with 0 other types of units. Applications for section 8 housing in Massachusetts for renters vouchers are equally difficult, as each town works with its own private partner to support that community.<sup>95</sup> Without support and guidance on the application process, there can be a lot of confusion on where to apply for resources.

Many of these programs, despite their eligibility issues, are quite robust and provide many

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<sup>91</sup> "Apply for TAFDC." Mass.gov, 2021, [www.mass.gov/how-to/apply-for-tafdc](http://www.mass.gov/how-to/apply-for-tafdc). Accessed 5 Nov. 2021.

<sup>92</sup> "Community Teamwork | Our Approach." Commteam.org, 2015, [www.commteam.org/how-we-help/our-approach/](http://www.commteam.org/how-we-help/our-approach/). Accessed 5 Nov. 2021. "County COMMUNITY."

<sup>93</sup> "Find Emergency Family Shelter." Mass.gov, 2021, [www.mass.gov/how-to/find-emergency-family-shelter](http://www.mass.gov/how-to/find-emergency-family-shelter). Accessed 5 Nov. 2021. Friedman, Donna Haig; Calano, Katherine; Bingulac, Marija; Miller, Christine; and Zeliger, Alisa (2013) "Children and Homelessness in Massachusetts," New England Journal of Public Policy: Vol. 25: Iss. 1, Article 8. Available at: <http://scholarworks.umb.edu/nejpp/vol25/iss1/8>

<sup>94</sup> "Help for Homeless People." Mass.gov, 2021, [www.mass.gov/help-for-homeless-people](http://www.mass.gov/help-for-homeless-people). Accessed 5 Nov. 2021.

<sup>95</sup> "Homeless in Massachusetts Statistics 2019. Homeless Estimation by State | US Interagency Council on Homelessness." Usich.gov, 2019, [www.usich.gov/homelessness-statistics/ma/#:~:text=Homelessness%20Statistics%20for%20Massachusetts%201%20Total%20Homeless%20Population,of%20Un%20accompanied%20Homeless%20Students%201%20C389%20More%20items...%20](http://www.usich.gov/homelessness-statistics/ma/#:~:text=Homelessness%20Statistics%20for%20Massachusetts%201%20Total%20Homeless%20Population,of%20Un%20accompanied%20Homeless%20Students%201%20C389%20More%20items...%20). Accessed 5 Nov. 2021.

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avenues for financial, educational, temporary, or long-term help. For example, those who are able to qualify for section 8 housing are able to receive not only benefits for a rent reduction to 30 or 40 percent of their income, but they can also apply for utility help, which they are automatically enrolled in through the utility provider and the Department of Transitional Assistance<sup>96</sup>. In addition, the Massachusetts Coalition for the Homeless helps to find eligible work supports for those who need to find work. Other collaboratives work to support those who are impacted by drug addictions and other personal problems they need help overcoming, which contributed to a 21% decrease in transitional housing in 2010 to 2011. During a short program in 2008 to combat the spike in homelessness from the recession, the Dudley Diversion Pilot Project provided direct cash assistance and helped to stop 86% of the 69 families to not enter a shelter for seven weeks. Many of these prevention-based approaches have been tested within the state, such as the APHA Affiliate and the Citizens' Housing and Planning Association study showing that preemptive intervention was most effective in keeping people off of the street, as opposed to a primary focus on emergency shelter after the damage had been done<sup>97</sup>.

From this study was a four-pronged approach to curbing homelessness in the state for increasing the minimum wage, funding affordable housing, creating more vocational opportunities, and encouraging further education<sup>98</sup>. However, many studies that develop efficient support programs end up losing funding and don't lead to a permanent safety net. This sentiment was echoed in greater detail in the solution of the New England Journal of Public Policy's report. Extrapolating that many who experience poverty are often in low-income jobs, and despite programs that can support them for a while, they often end up falling back into poverty once they lose benefits working in minimum wage jobs. It was also advocated to expand paid time off for even low-level employees to increase health outcomes for those who will often forgo medical treatment to pay their bills. Lastly, what was suggested was to remove the restrictions on emergency shelter and expand eligibility to encourage those who are eligible to apply and not get tied in red tape<sup>99</sup>. Throughout all examined academic sources, one sentiment was constant: that despite the current programs, many do not encapsulate the intersectionality of poverty and require greater organization and funding in order to reach out to those who need support.

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<sup>96</sup> "Homelessness Focus in Massachusetts - ProQuest." Proquest.com, 2014, [www.proquest.com/docview/1611014830/fulltext/565D977F9BBD4EF2PQ/1?accountid=8285](http://www.proquest.com/docview/1611014830/fulltext/565D977F9BBD4EF2PQ/1?accountid=8285), ". Accessed 5 Nov. 2021.

<sup>97</sup> "MA Unaccompanied Homeless Youth Commission." Mass.gov, 2021, [www.mass.gov/orgs/ma-unaccompanied-homeless-youth-commission](http://www.mass.gov/orgs/ma-unaccompanied-homeless-youth-commission). Accessed 5 Nov. 2021. Massachusetts. "1983 Chap. 0450. An Act Further Regulating Assistance to Certain Needy Persons." State.ma.us, 2021, [archives.lib.state.ma.us/handle/2452/39556](http://archives.lib.state.ma.us/handle/2452/39556), <http://hdl.handle.net/2452/39556>. Accessed 5 Nov. 2021.

<sup>98</sup> "Massachusetts Homeless Shelters - Massachusetts Homeless Shelters and Emergency Shelters - Massachusetts Homeless Services." Homelessshelterdirectory.org, 2021, [www.homelessshelterdirectory.org/state/massachusetts](http://www.homelessshelterdirectory.org/state/massachusetts). Accessed 5 Nov. 2021.

<sup>99</sup> "Massachusetts Is a 'Right to Shelter' State - MassLandlords.net." MassLandlords.net, 17 Aug. 2015, [masslandlords.net/massachusetts-is-a-right-to-shelter-state/](http://masslandlords.net/massachusetts-is-a-right-to-shelter-state/). Accessed 5 Nov. 2021. Project Feature Reducing Chronic Homelessness in Massachusetts. 20 Jan. 2020.