

Illegal to Exist: The Criminalization of Houselessness in the United States

by
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Honors Baccalaureate of Arts in Sociology
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Michelle Inderbitzin

In the United States, the state of housing and the lack thereof has been declared a national crisis. In response, cities have taken measures to police behaviors that are associated with what they perceive to be disorder and decay. These behaviors are also commonly associated with houselessness. Laws that criminalize houselessness can be viewed as issues of social and economic sustainability and have faced scrutiny for violations of human and constitutional rights. Criminalization creates and exacerbates the cycle of poverty, making life more difficult for people experiencing houselessness. Any action taken to address issues of houselessness must be multi-faceted, holistic, and considering the needs of the houseless community.

Key Words: criminalization, homelessness, houselessness, sustainability

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Honors Baccalaureate of Arts in Sociology and Honors Baccalaureate of Science in Sustainability project of Mariah E. Waite presented on May 24th 2016.

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I understand that my project will become part of the permanent collection of Oregon State University, Honors College. My signature below authorizes release of my project to any reader upon request.

Mariah E. Waite, Author

Introduction

In the United States, the state of housing and the lack thereof has been declared a national crisis (National Law Center on Homelessness and Poverty 2014). In response, cities have taken measures to police behaviors that are associated with what they perceive to be disorder and decay (Teir 1998). These behaviors are also commonly associated with houselessness (NLCHP 2014). The result has been an ongoing struggle between people experiencing houselessness and the housed members of their communities who do not want to see them in public spaces (Kohn 2004). Evidence shows that this has taken a toll on people experiencing houselessness and the greater communities alike (NLCHP 2014). This paper has three goals: to understand from personal accounts how criminalization affects people experiencing houselessness and their communities, to apply a sustainability lens to this issue, and to consider viable alternatives to criminalization.

Background

Activities Required for Daily Survival are Criminalized

The Need

In many communities, houselessness has become more prevalent and local governments have been unable to keep up with the needs of this community (NLCHP 2014). In 2013, the U.S. Department of Housing and Urban Development (HUD) counted 610,042 people deemed to be houseless--that is, people staying in shelters, transitional housing, or observable public spaces on one night. Maria Foscarinis notes that this is likely an under-reporting, as houselessness can also include "doubled up" households (households with multiple families living them), people sleeping on someone else's couch, or people with nowhere to go upon release from jails, prisons, hospitals, or mental health or substance abuse centers (2014). In its 2013 survey of 25 different cities, the U.S. Conference of Mayors found a 4% increase in family houselessness over the course of the previous year. The 2012-13 school year also marked a record high in K-12 student houselessness in the United States, with 1.25 million public school students living in doubled-up residences, shelters, hotels/motels, or unsheltered (National Center for Homeless Education 2014). A 12.8% decrease in low-income housing between 2001 and 2014 points to a lack of affordable housing as a significant cause of houselessness (NLCHP 2014). In an analysis of all 50 states, the

National Low Income Housing Coalition found that in no states is the average one- or two-bedroom apartment affordable to someone making minimum wage (that is, amounting to 30% of the renter's income) (2014). Matthew Desmond and Rachel Tolbert Kimbro also speak to the pattern of eviction, which leads to houselessness in many situations (2015).

Funding for housing and other houseless services are coordinated by localized organizations called Continuums of Care (CoCs), which support the work of the US Department of Housing & Urban Development (NLCHP 2014, US Department of Housing & Urban Development 2014). Every two years, CoCs count the numbers of available or needed beds in their communities. In 2013, 62% of CoCs reported fewer available shelter beds than people who need them (NLCHP 2014). The percentage of people experiencing houselessness without shelter beds ranges from 24% in Albuquerque, New Mexico to 83% in Northwest North Carolina, which included seven counties bordering Tennessee and Virginia (NLCHP 2014). In the NLCHP's 2011 survey of 154 people from 26 states, a sample which included advocates, service providers, and self-identifying homeless individuals, over 80% of respondents who reported restrictions on camping, sleeping, urination, defecation, or public storage of belongings also noted a lack of sufficient resources which could prevent these behaviors. These resources include free or affordable options to store belongings, public restrooms, and shelter beds (NLCHP 2011a).

When shelter space is limited, especially in the winter time, sleeping in a vehicle can be a life and death choice, a last resort to protect oneself from the elements

(NLCHP 2014). The 2010 Winter Services Report by the National Coalition for the Homeless (NCH) found that hypothermia claims the lives 700 people experiencing or at risk of houselessness per year.

People experiencing houselessness in the United States cite a lack of public restrooms as the main reason they urinate or defecate outside (Lewis 2014a). Ray Llyall of the nonprofit Denver Homeless Out Loud surveyed public toilets in Denver. They found only ten restrooms that were open to the public. Only two of these were open all hours and one of those was a portable toilet that is rarely cleaned (Lewis 2014a). Robinson and Sickels found this to be similar across all of Colorado, with 83% of their survey respondents reporting that they had been denied access to a restroom, as public restrooms have been disappearing (2015). Cities in California, Washington, and Florida have also been found to lack access or to have restricted hours to public restrooms (NLCHP 2011a). In 2007, the city of Grand Junction, Colorado took to locking public restrooms and turning off the water fountain at Whitman Park, as part of their attempts to “reclaim” it from people experiencing houselessness (Anon. 2008).

Even though 44% of people experiencing houselessness are employed, underemployment and low wages can make work ineffective at getting or keeping people out of poverty or houselessness (NCH 2009). Many factors also prevent people experiencing houselessness from finding gainful employment (NCH 2009). These include limitations of transportation and employment history, lack of access to education, training or appropriate clothing, or mental or physical illness including substance abuse (Long, Río, & Rosen 2007, NCH 2009, Snow & Anderson 1993).

Incarceration is also a barrier to employment and will be discussed in future sections (NCH 2009).

For those without sufficient employment opportunities or necessary services, panhandling is a crucial source of income (NLCHP 2014). Even with available services, some shelters require payment, prompting people to seek cash (NLCHP 2014). A survey of 146 panhandlers conducted by the Union Square Business Improvement District in San Francisco revealed that 82% were homeless, and, while 44% admittedly used money for drugs and alcohol, 94% used the money for food (Knight 2013).

There has also been an increase in need paired with a decrease in available services with regards to food security (United States Conference of Mayors 2013). In a survey of 25 cities, 91% reported an increase in people requesting services for the first time, while 78% had to reduce the limit on individual food pantry visits per month (USCM 2013). Individuals may rely on public food distribution when lack of adequate transportation, disability, and illness, all commonly associated with houselessness (NCH 2009, Long, Río, and Rosen 2007, NCH 2014, Lee, Tyler, & Wright 2010), prevent them from seeking food services in more private locations (NCH 2014).

The Laws

According to the NLCHP, “of 234 American cities, 40 percent make it a crime to sleep in public spaces, while 56 percent prohibit loitering in public places and 53 percent prohibit begging and panhandling in public places,” (2016). Most things that we as a society consider private, such as sleeping, washing oneself, having sex,

urinating, or defecating, are frequently illegal to do in public (Kohn 2004, NLCHP 2014). When people lack their own private space and public services are limited, these people's choices are also severely limited, leading them to engage in these very human actions in public. Since the early 1980s, when police departments in New York, Los Angeles, and Chicago adopted a practice of "broken windows" policing (controlling "disorderly behavior" with the goal of preventing serious crimes), it has been illegal to engage in most activities that are necessary to survive when living without consistent shelter in cities across the country (Lewis 2014b, NLCHP 2014). This lack of available resources leaves people experiencing houselessness with few to no options but to break the law for their own survival. Other laws that limit the abilities of people experiencing houselessness include the criminalization of trespassing, sitting or lying down in public, sleeping in vehicles, panhandling, and food sharing (NCH 2014, NLCHP 2014). Sitting or lying down in certain public spaces, particularly sidewalks, is restricted in 53% of the 187 cities surveyed by the National Law Center on Homelessness and Poverty in 2014.

With regards to panhandling, some laws are outright bans while others outlaw "aggressive panhandling," with the intention to prevent threatening behavior (NLCHP 2014). It is important to note, however, that in cities such as Mobile, Alabama, requesting a donation from someone in line at a commercial establishment counts as "aggressive," (NLCHP 2014). While 76% of cities surveyed by the NLCHP have anti-panhandling laws that only restrict panhandling in particular public places, those places are often tourist and commercial districts, where panhandlers have the most

access to regular potential donors (NLCHP 2014). This means that bans on begging in certain public places can have similar effects to those of city-wide bans, which exist in 24% of cities (NLCHP 2014).

Between 2013 and 2014, the NCH identified 21 cities that have restrictions against public food sharing in some form (2014). These include requiring a permit to distribute food (often for a fee), requiring compliance with strict food safety regulations, and community pressure from businesses and homeowners for food-sharing organizations to relocate their services (NCH 2014). The NCH notes that when these programs are forced to relocate, they may become out of reach for people with disabilities and/or limited access to transportation (2014). According to Anders Corr, law enforcement against public food sharing has existed for a long time, beginning with San Francisco's Food Not Bombs organization sustaining abuse by riot police as well as members logging over a thousand arrests for refusing to obtain food service permits between 1980 and 1999 (1999).

The prevalence of these laws has been on the rise. In a survey of 187 cities, the NLCHP measured an increase in the number of laws against camping or begging in particular public places and camping, loitering, loafing, or vagrancy, or begging city wide between 2011 and 2014 (2014). It has also resulted in a skewing of crime statistics. For example, in San Francisco in 2011, crimes of sitting, lying down, loitering, and sleeping made up approximately one third of the total prosecuted offenses (Boden 2012). Crimes such as these are also often referred to as "quality-of-life

crimes,” suggesting that they lower the quality of life for residents and visitors of the area (Green 2016). This raises the question: the quality of whose life?

The Enforcement

These laws are enforced in a multitude of ways. Law enforcement can write tickets or citations, often associated with a fine (NLCHP 2014). One example of this is Palo Alto, California, where violation of their law against sleeping in vehicles can result in a fine of \$1000 or six months in prison (Green 2013). These tickets and citations often pile up due to inability to pay and this can lead to arrests (Street Sheet 2007b, Blasi 2007, Howland 1994, NCH 2004). Some people are arrested on site, reportedly for not “moving along” or responding fast enough to instructions to do so by police officers and security guards, as was the case with *Jones v. City of Los Angeles*, where the plaintiffs were arrested for violating Los Angeles’s sit/lie law (Ozdeger 2007).

In cities such as Charleston, South Carolina, a violation of an anti-loitering statute can be enforced with an order to stay away from the area of violation under penalty of criminal trespassing charges (Charleston, SC City Code 2014). This can result in long-term bans from public spaces that people experiencing homelessness frequent, including public libraries and parks (NLCHP 2014).

Finally, police forces nationwide conduct “sweeps” of well-known homeless camps, often taking down temporary shelters and seizing or throwing away personal items (NLCHP 2014). Campers frequently lose their personal belongings in sweeps (NLCHP 2014). In Fresno, California, the City has adopted a policy of considering any

personal property left unattended as “trash” and it is therefore thrown away (NLCHP 2014). Typically, city governments are required to give notice before sweeps, but it is not uncommon for residents to receive little to no notice (NLCHP and NCH 2009, NLCHP 2011a, NCH 2004). For example, in Little Rock, Arkansas in 2004, after the city had agreed to give notice for sweeps, the police raided a houseless camp with no notice, dumping people’s personal belongings (NCH 2004). In 1994, David Smith found that “the fear of homeless crime that prompts police sweeps is grossly disproportionate to the levels of homeless crime suggested by available empirical evidence (496).” Smith also noted that people who are homeless are “no more, and probably less, likely to commit crimes of violence than the general population (495).”

Broken Windows

A prominent theory that rationalizes the criminalization of houselessness is “broken windows” theory. Wilson and Kelling (1982) asserted that “if a window in a building is broken and left unrepaired, all the rest of the windows will soon be broken (quoted in Amster 2008:102).” They suggest that the appearance of disorder attracts serious crime and that cracking down on minor offenses or “disorderly behavior” may prevent major offenses. Waldron (2000) asks us to consider “what is to count as *fixing* the window, when the ‘broken window’ is a human being (quoted in Amster 2008:103)?” Waldron takes issue with the blatant reference to human beings as things, particularly broken ones. Amster critiques both the figurative dehumanization of equating human beings to things and the very real impact of social control over people

experiencing houselessness caused by broken windows policing (2008). Waldron concludes that fixing the window, based on this theory, is removing the person deemed to demonstrate “disorderly behavior” entirely (2000). This public exclusion has manifested in cities such as Cincinnati, Portland, Oregon, and Seattle, where city governments have drawn plea deals with people experiencing houselessness, offering to not press charges if the offenders leave the city (Beckett & Herbert 2007).

Contradicting past evidence that appears to support broken windows theory, a 2014 study found that strict enforcement of misdemeanor charges in New York City, whose city government has attributed its successful drop in higher level crimes such as robbery, aggravated assault, and homicide to broken windows policing (Teir 1998), actually could not support this claim (Greenberg 2014). Greenberg conducted a regression analysis of the data of misdemeanor and felony arrests made by NYPD and found that while felony arrests very slightly contributed to the drop in robbery, aggravated assault, and homicide, no such association could be made for misdemeanor arrests (2014). Fagan and Davies similarly note that disorder in New York City “did not predict rates of homicide, and only weakly predicted rates of robbery” (2001:474-475).

In 1999, the very same Kelling revised his stance on his theory, admitting the potential for its abuse; maintaining order often degenerates into harassment and discrimination. Broken windows policing has come under fire by the Black Lives Matter movement for quality-of-life charges resulting in the disproportional

criminalization of people of color (Green 2016). The website for Campaign Zero, a subset of Black Lives Matter, notes that broken windows policing (Anon. n.d.):

"...has led to the criminalization and over-policing of communities of color and excessive force in otherwise harmless situations. Police killed at least 287 people last year who were involved in minor offenses and harmless activities like sleeping in parks, possessing drugs, looking "suspicious" or having a mental health crisis. These activities are often symptoms of underlying issues of drug addiction, homelessness, and mental illness which should be treated by healthcare professionals and social workers rather than the police."

Sampson and Raudenbush draw a connection between implicit bias, particularly towards people of color, and behavior that is perceived as "disorderly" or "broken" (2004). This has real effects on enforcement policies such as stop-and-frisk, which target people of color disproportionately to their respective crime rates (Fagan & Davies 2001). In Multnomah County, Oregon, where only 6% of the population is black, black individuals make up 24% of those charged with quality-of-life crimes (Green 2016).

Duneier (1999:315) prompts us to use our understanding of implicit bias and question if the metaphorical windows are even broken:

"Because Americans ruthlessly use race and class categories as they navigate through life, many citizens generalize from the actual broken windows to all the windows that look like them--and assume that a person who looks broken must be shattered, when in fact he is trying to fix himself as best he can. Only by

understanding the rich social organization of the sidewalk, in all its complexity, might citizens and politicians appreciate how much is lost when we accept the idea that the presence of a few broken windows justifies tearing down the whole informal structure.”

Finally, Randall Amster (2008) asks us to consider what broke the window in the first place, rather than only fixing the broken window, which can be understood as a symptom of the larger problem of homelessness. If and when we address the root causes of the issue, it should stop the windows from breaking in the first place and in the future. Fixing the broken window is therefore only a band-aid solution.

Supporters of Criminalizing Homelessness

In cities such as Austin, Houston, and Tempe, the primary advocates for criminalization of people experiencing homelessness and broken windows policing have been business improvement districts (BIDs) (Conner 1999). These districts are areas of urban development and entertainment and typically employ their own private security forces for social control (NCH & NLCHP 2002), such as TEAM in downtown Tempe, Arizona (Berkley & Thayer 2000). Past directors of BIDs in Austin and Houston, Texas (Mealer 1999 and Jackson 1998, respectively) have self-identified as “firm believers” in broken windows theory. Tempe’s Downtown Tempe Community, Inc. (DTC) has also identified broken windows as the strategy they support for maintaining order and “civility” (Amster 2008). The DTC works towards their vision of community improvement, claiming that they have “made downtown a safer place (quoted in

Amster 2008:100).” Amster points out that this vision of “community standards” excludes people who are poor or houseless, suggesting that they are not part of the community. (2008).

Many business owners fear that people sitting, lying, and sleeping on sidewalks in front of their buildings will impede their commerce. The general belief is that people experiencing houselessness will scare away consumers, which is bad for business (Foscarinis 1996, Berkley & Thayer 2000). Potential customers or clients with money to spend are top priority, while efforts are made to keep out those lacking money to spend (Berkley & Thayer 2000). Proponents of sit/lie laws have claimed that these laws are necessary to improve economic activity (NLCHP 2014). However, a group of researchers from the University of California-Berkeley examined the available data for economic activity of five sit/lie jurisdictions in California and found no empirical evidence connecting sit/lie laws to increased economic activity (Selbin et al. 2012). There is an overall lack of sufficient, generalizable data to support or contest this claim (Selbin et al. 2012).

Another example of the contentious relationship between business owners and people experiencing houselessness is currently taking place in Portland, Oregon. Only two months into Mayor Charlie Hales’ six-month experiment with a safe sleep policy allowing people to camp and sleep in public, Portland businesses are suing the city for what they deem to be an abuse of power (Schmidt 2016). Time will tell if people experiencing houselessness will be allowed to continue camping in public.

A community-driven effort to restrict the presence of people experiencing houselessness in the community rallies under a statement of “Not In My Backyard” (NIMBY) (NCH 2014). Between January 2013 and October 2014, the National Coalition for the Homeless noted four cities that used community pressure to relocate food-sharing programs (2014). Jodi O’Brien notes that

“NIMBY...politics about low-income housing and centers for the homeless indicate that Americans who are affluent feel they have the right to be protected from evidence that there is not enough of the pie to go around,” (1999:155).

Stigma and Fear Mongering

As the last section suggests, stigmas and stereotypes may contribute to support for criminalizing houselessness (NCH 2004, Sampson & Raudenbush 2004). Associating “homeless” with “criminal” creates a self-fulfilling prophecy, in which fear of people experiencing houselessness is both created and legitimized (NCH 2004, Amster 2008). In a 1997 study, Phelan et al. found that homelessness was stigmatized to a similar extent as mental illness. Interestingly, though, they found a stronger stigma with regards to social distance, but not with regards to perception of dangerousness (1997).

Weber’s Protestant Work Ethic creates the idea of meritocracy, a prominent belief of US American culture (O’Brien 1999). Under a true meritocracy, everyone’s material wealth would reflect their work ethic and their morals. In the United States, this leads to a cultural perception that people’s material wealth is a direct reward for

working hard, which appears to be fair. When people perceive the system to be fair, they therefore believe the outcome to be justified (O'Brien 1999). The conclusion one can draw from this is that people experiencing houselessness are lazy and lacking in morals. O'Brien argues that meritocracy is a myth, but the belief in this myth still has real outcomes, including the criminalization and removal of people experiencing houselessness from the public sphere. As O'Brien notes, "we can also perpetuate a false awareness that meritocracy is working by pretending that some of the population does not exist," (1999:139).

Marx's theory of ideology suggests that the idea of meritocracy comes from the dominant class, stating (1846:172):

"The ideas of the ruling class are in every epoch the ruling ideas; i.e. the class which is the ruling material force of society, is at the same time its ruling intellectual force. The class which has the means of production at its disposal, has control at the same time over the means of mental production, so that thereby, generally speaking, the ideas of those who lack the means of mental production are subject to it."

Marx believes that dominant ideas are implemented by those in power to maintain that power. In this sense, meritocracy supports the upper class, allowing others to believe that those with wealth deserve what they have, as do people experiencing houselessness.

Proponents of criminalization use images of disease and lack of sanitation with regards to people experiencing houselessness, making a claim that their presence is a

public health issue (Foscarinis 1996). Robinson and Sickels address this issue directly, noting that people experiencing houselessness are not going to be “dirty” if the proper hygiene facilities are provided to them (2015). O’Brien notes the way that perceptions of hygiene distract from issues of class (1999:152):

“The lack of public discourse about the structure of poverty inclines us to think that people are poor because they are unclean, rather than the other way around, they are dirty because they don’t have the means to be clean in the expected middle-class way.”

One stereotype asserts that people are houseless or panhandle by choice and that social services such as food sharing encourage people to be houseless (Gant 2014). A series of studies from the late 1990s reinforce this idea, noting that only a small percentage of people who panhandle experience houselessness (Teir 1998, Fontana Police Department 1998). These studies are still used to uphold this idea for the Center for Problem-Oriented Policing at the University of Albany, whose most up-to-date guide for policing panhandling is from 2002 (Scott 2002). However, most recently, the Union Square BID survey of panhandlers contradicts this idea, with 82% of survey respondents identifying as houseless and only 3% of respondents claiming to be uninterested in housing (Knight 2013).

The National Coalition for the Homeless makes a case for the need for housed people to understand the situations people experiencing houselessness face (2004, quoted in Amster 2008:95):

“Sympathy for homeless people depends in large measure on understanding the economic causes of homelessness and the oppressive conditions of living without a private space. Legislating against the behavior and circumstances of people who have no place to go is a giant step backward in the effort to end homelessness.”

Sustainability

Sustainability is commonly defined as meeting the needs of the current generations without compromising the ability of future generations to meet their own needs (World Commission on Environment and Development 1987). Given this definition, the criminalization of homelessness can be viewed as a sustainability issue. Since the World Commission on Environment and Development in 1987, sustainability has acknowledged the interdependence of the ecological, social, and economic spheres. Robert Gibson emphasizes the importance of including issues such as social justice and equity in assessment of sustainability, including voices of stakeholder communities in decision-making (2006). In this sense, ecological, social, and economic systems are all interconnected. While this research focuses primarily on the social and economic aspects of sustainability, it is important to note that the issues of criminalizing homelessness are indirectly tied to ecological unsustainability.

Social Sustainability

The criminalization of houselessness is socially unsustainable because it creates a vicious cycle of poverty. With the number of laws against typically houseless behavior on the rise since 2011, houselessness remains a national crisis, particularly with marked increases in family and youth houselessness (NLCHP 2014).

Having a criminal and/or incarceration record makes it more difficult to obtain needs such as jobs and housing, keeping people on the streets (NCH 2004, NCH 2009, NLCHP 2014). Once on the streets, the same people may return to the survival activities that are criminalized, adding more to their record (NCH 2004, NCH 2009, NLCHP 2014). The National Coalition for the Homeless and the National Law Center on Homelessness and Poverty noted that “incarceration and police harassment [perpetuate] homelessness by leading to missing appointments with health care providers, caseworkers, job interviews, children, partners, and family members, disrupting their lives in countless ways and reinforcing a sense of alienation and hopelessness,” (2002, quoted in Amster 2008:110). After 30 days of incarceration, an individual loses their Social Security benefits for the remainder of their sentence (NCH 2004). An outstanding warrant may be sufficient grounds to deny someone benefits as well (NCH 2004). Citations and fines often pile up, leaving a person without resources with no way to pay them (NLCHP 2014). The National Coalition for the Homeless also noted that employers can become less inclined to hire people experiencing

houselessness when they miss work for court dates or due to lack of adequate transportation (2004).

Human and Constitutional Rights

The enactment and enforcement of laws against survival actions have been deemed a violation of human rights, which can be used as an indicator of social sustainability. One the federal level, the U.S. Interagency Council on Homelessness (USICH), a council consisting of the heads of 19 federal member agencies that coordinates a federal response to houselessness (USICH n.d.) has declared the criminalization of houselessness to be an infringement on human rights and proposes alternative solutions that center human rights (Sawyer 2014).

Internationally, the United States has recognized housing as a human right since signing the Universal Declaration of Human Rights in 1948, which states (NLCHP 2011b:16):

“Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

This became binding treaty law in 1966 with the International Covenant on Economic, Social, and Cultural Rights, which the United States signed in 1977 but never ratified (NLCHP 2011b). The U.S. did ratify the International Covenant on Civil and

Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in 1992 and 1994, respectively, both of which are binding treaties that recognize freedom from discrimination, including housing, on the basis of disability, gender, race, and other identities and statuses (NLCHP 2011b). USICH identified the criminalization of homelessness to likely be not in compliance with the ICCPR (2012). This also brought about a hearing in 2013 on the U.S.'s compliance with the ICCPR (Tars & Blume 2013). It came to a head when the United Nations Human Rights Committee (HRC), which oversees compliance to the ICCPR, found the criminalization of homelessness in the United States in violation of the ICCPR on the grounds of discrimination and cruel, inhuman, or degrading treatment (NLCHP 2014). They concluded (NLCHP 2014:28):

“The State party should engage with state and local authorities to: (a) abolish criminalization of homelessness laws and policies at state and local levels; (b) ensure close cooperation between all relevant stakeholders including social, health, law enforcement and justice professionals at all levels to intensify efforts to find solutions for the homeless in accordance with human rights standards; and (c) offer incentives for decriminalization and implementation of such solutions, including by providing continued financial support to local authorities implementing alternatives to criminalization and withdrawing funding for local authorities criminalizing the homeless.”

In the United States, laws against behavior typically associated with homelessness and their enforcement have been deemed unconstitutional on multiple

accounts (Ozdeger 2007). In the 1997 case of *Benefit v. City of Cambridge*, the court determined the anti-panhandling law Cambridge, Massachusetts to be in violation of the First Amendment right to free speech (Ozdeger 2007). In a similar case in Indianapolis, the court agreed that panhandlers convey an important political message and is therefore protected under the First Amendment (Ozdeger 2007). In 2011, two religious organizations challenged the anti-food sharing law in Dallas, Texas in the case of *Big Hart Ministries v. City of Dallas*. The court found providing food to people who need it to be a form of religious expression protected under the Texas Religious Freedom Restoration Act (NCH 2014).

The Ninth Circuit found unlimited enforcement of Los Angeles Municipal Code 41.18, which criminalizes sitting, sleeping, or lying down throughout the entire city, to be in violation of the Eighth Amendment rights of homeless individuals to be protected from cruel and unusual punishment in the 2006 case *Jones v. City of Los Angeles*. This was on the grounds that people experiencing houselessness have no other choice than to sit, lie, or sleep in public due to lack of sufficient shelter space. The court ruled that the Eighth Amendment only applies when shelter space is limited, deeming the action to not be a choice (Ozdeger 2007).

The 1996 case of *Pottinger v. Miami* also successfully used the Eighth Amendment defense and brought up the Fourth and Fifth Amendments as well. In this case, the court found the practices of seizing and destroying the property of people experiencing houselessness as well as forcing them to abandon their property upon arrest to be unreasonable search and seizure, violating the Fourth Amendment. The

court also ruled this to be in violation of Fifth Amendment, which prohibits the taking of private property without just compensation (Ozdeger 2007).

Finally, Las Vegas's law against sharing food with "indigent" persons in public parks came under fire in 2006, when the court in *Sacco v. City of Las Vegas* determined that this law violated the equal protection clause of the Fourteenth Amendment (Ozdeger 2007). All of these cases are crucial to understand the context of the criminalization of homelessness, particularly as it relates to legal issues. Ultimately, human rights also need to be integrated with sustainability goals, as one cannot be achieved without the other (Marcuse 1998).

Economic Sustainability

The homeless community is not the only one negatively affected by these measures. The criminalization of homelessness may also be economically unsustainable. The entire community pays for the enforcement of these laws. Contrary to the idea that criminalization is necessary for economic vitality, enforcement may be more costly (NLCHP 2014). Between 2004 and 2009, the Federal Strategic Plan to End Homelessness analyzed the expenditures of enforcement in 13 regions including Portland, Oregon. They found that the average city spends \$87 a day to jail a person, while it would only cost \$28 a day to shelter them (NLCHP & NCH 2009). Consistent shelter through supportive housing also has the ability to prevent further costs to society, such as the cost of the use of hospital emergency departments, shelter space, or public mental health care services, which are disproportionately used by people

experiencing homelessness (Corporation for Supportive Housing 2016, Sadowski et al. 2009). Evidence has shown that this is likely due to the fact that supportive housing allows residents the stability that's necessary for consistent access to needed services including case management and treatment for substance abuse or mental health care (NLCHP & NCH 2009, Watson et al. 2013).

Salit et al. noted the high cost of hospitalization among people experiencing homelessness, much of which could be prevented by supportive housing (1998):

"Better access to supportive housing for these patients could reduce hospital stays by as many as 70 days per admission. Seventy days in a general-hospital psychiatric unit, even at a rate of \$250 per day for subacute care, costs \$17,500, whereas a unit of supportive housing with social services for an entire year costs \$12,500 in New York City."

Data and Methods

The following data comes from sixteen main sources including a variety of surveys, interviews, books, magazines, artwork, and newspapers. I used resources from advocacy groups including the National Law Center on Homelessness and Poverty, the National Coalition for the Homeless, and the Western Regional Advocacy Project and book resources came from the Oregon State University Valley Library. All of the resources have been used with the specific intention of relaying personal accounts of homelessness and criminalization. Until this point, the resources for this paper have consisted of research and work written almost entirely by academics,

advocacy groups, and proponents of criminalization, almost all of which are people with housing. An important aspect of a sustainable world is considering the views of people most directly impacted by issues in decision-making (Clifton & Amran 2011). My goal in this paper is to bring these voices to the center, since the issues of criminalization affect them first and foremost. Unless otherwise noted, all quotations are from people who have experienced houselessness. This section also includes three works of art as examples of the variety of ways perspectives can be expressed beyond words.

One limitation of this research is sampling bias. A person who engages in an interview or survey, publishes their own book, or writes newspaper articles may be set apart from their peers in a variety of ways. Disabilities including mental and addictive illness may prevent one from engaging in these activities. Surveys are often conducted among the most visible of the houseless population, limiting the representation of those who stay in less visible places (though those who are more visible may be more likely to experience criminalization). Those who publish their own works may have access to resources that others do not, such as the funds to do so. Finally, the nature of police harassment, which will be discussed below, may prevent individuals from making public comments for fear of retaliation. Hopefully, future research may work towards telling a more holistic story of people experiencing houselessness and criminalization.

Frequent Criminalization Disrupts People's Lives

In her book *Criminal of Poverty: Growing Up Homeless In America*, self-described "poverty scholar" Lisa "Tiny" Gray-García conveys a contentious relationship with the police, who are ever-present in areas where there are poor people (2006). On her moving to the Bay Area, she recounted (2006:103),

"...there were the cops, so many cops: UC Police, Berkeley police, BART police, AC Transit police, federal police, Vista College police, Housing Authority police--just name the quasi-institution and they would probably boast their own police force, giving parking tickets, issuing Driving While Poor tickets (no registration, broken tail light, sleeping in a vehicle, nuisance, etc.) and generally giving people a hard time wherever they could."

She also mentions that sleeping in her car was always associated with the chance of a police officer threatening her with a citation, towing, or arrest (2006). She does note, however, that it was nicer to wake up to a cop tapping on her window and asking her to move than to the slap of a ticket on the windshield (2006).

Kevin, one of the individuals Randall Amster interviewed in Tempe, Arizona and quoted in his book *Lost in Space: The Criminalization, Globalization, and Urban Ecology of Homelessness*, notes that between 1997 and 2000, he has been arrested 43 times for offenses such as public urination, trespassing on private property, and public consumption of alcohol (2008). Amster goes on to recount witnessing the arrest of a man with a bushy beard for playing guitar on a sidewalk in 2001 (2008). A Tempe

TEAM guard asked the man to leave on the grounds that he was a known trespasser. When the man gave no response, the TEAM guard called the police, who handcuffed the man on his knees and searched through all of his belongings in his backpack and guitar case (Amster 2008). These demonstrate some of the ways that people experiencing houselessness are not welcome in public space, and how repercussions begin to build up over years of chronic houselessness.

Even when people engage in legitimate work, they may be cited for begging in public. A number of newspapers including *Street Roots* (Portland, OR), *Street Sheet* (San Francisco, CA), *Real Change* (Seattle, WA), and the *Austin (TX) Advocate*, are created for and by the houseless community. Their articles include issues faced by the houseless community as well as proposed solutions. Their vendors are people experiencing houselessness or low income. Vendors apply through a program and can either acquire copies of the newspaper each day for free or buy them for a low price, allowing them to sell the newspapers and keep the profits (Street Roots 2012, Street Sheet 2012, Real Change n.d., Troxell 2004). While this provides a stable source of income for many, it unfortunately does not protect one from criminalization, as was the case with Robert Stevenson, who was given a \$250 ticket for selling the Austin Advocate (NCH 2004).

For some, anti-camping and sit/lie laws make getting any sort of rest incredibly difficult. "Bob," a Denver resident interviewed by Robinson and Sickels, tells the story of one of his worst police encounters (2015:49):

"...I was sitting at a bus stop, my feet were tired, I got off from a landscaping job and I couldn't walk any further, I've been up all night...A police officer approached me, and told me to, 'move on and that I couldn't camp here.' I said, 'I'm not camping.' He said, 'are you waiting on the bus?' I said, 'No, I'm not waiting on the bus. My feet are hurting. I've been wearing these boots all night, I've worked all day.' My feet were throbbing. He said, 'You do what I tell you to do.' He made me get up and move on. I guess I was moving too slow. He said okay, 'let me see some ID.' I took out my ID. He went on saying, 'this is for my safety and yours.' He put me in handcuffs. All the crowd was watching. The other cop was going through my backpack, throwing stuff on the ground. He turned it upside down and dumped it out, when they got done, he told me, 'to pick up this crap and get out.' I had all my fresh laundered clothes in there and my water. I picked up my stuff and moved on. This stuff goes on [every day]."

Similarly, Jacob, an interviewee featured in the National Law Center on Homelessness and Poverty's 2014 report, speaks to the challenges of finding a place to sleep (NLCHP 2014:20):

"The cops give us no rest. I mean, we can't even sleep at the park anymore because it's against the [law] to camp. Even if we sleep [on the streets] we get ticketed. There was one night I couldn't even get a full eight hours of sleep because I was getting woken up by cops and told to go from place to place. And I would just go lay down and get woken up an hour later. Go lay down another place, and get woken up. I got five tickets that night...[Last night] I [slept] in a

park right over there, where I'm at risk of getting a ticket every night. I can sleep on the sidewalk and get a ticket. I can sleep [across the street] and get a ticket. No matter where I go I get a ticket."

Some houseless residents have been arrested for more serious crimes than they claim to have committed. For example, a person experiencing houselessness in Naples, Florida was given a 12-year sentence for spitting on a sheriff's deputy after being arrested for trespassing and coughing up phlegm (NCH 2004). Another person experiencing houselessness Sacramento, California was arrested for verbally assaulting a police officer after telling them that they were "being discriminatory against the homeless," (NCH 2004). Some of this may be a direct result of stigmatizing people experiencing houselessness, with perceptions of seeing them as more criminal or more dangerous than they actually are informing the response of law enforcement. The result is a more severe punishment and the perpetuation of those stigmas.

These patterns of criminalization disrupt the ability of people experiencing houselessness to meet their own needs, suggesting that this practice is unsustainable. Remembering that sustainability requires meeting the needs of the current generation, this needs to include everyone.

Unpaid Fines Lead to Arrest Warrants

Cases of low-level crimes are frequently associated with fines, contributing to an unsustainable vicious cycle of poverty. For people like Katy from Tempe, this is especially difficult to pay off, as she pointed out after receiving a ticket for drinking in

public: “A \$285 ticket! Where the heck is a homeless person gonna get \$285 to pay them off?” (Amster 2008:113). Sandy had a similar experience, saying “...I can’t pay for this ticket; it’s four-hundred bucks! You know, I can’t pay \$80 dollars. I have no income whatsoever,” (NLCHP 2014:20).

Bill from Tempe notes that “an unpaid fine then becomes an arrest warrant, so the next time they run your ID, you’re goin’ to jail” (Amster 2008:113). Gary Blasi confirms this in his research on Skid Row’s Safer Cities Initiative, an application of broken windows policing, noting that thousands of houseless residents of Los Angeles were arrested for an inability to pay a fine (2007) .

For Tiny Gray-García, her priorities of feeding and sheltering herself and her ailing mother as well as maintaining a business led her to neglect her tickets for what she refers to as “driving while poor” offenses (“no registration, broken tail light, sleeping in a vehicle, nuisance, etc.”) until they totalled \$2800 (2006:103). Unable to pay this sum, she went to the Alameda County Courthouse, asking the judge to allow her to make small payments of \$20 a month or to give her community service instead. The judge informed her that community service was not an option due to the closing of the Alameda County volunteer center and that \$20 a month would take too long to pay off the debt. Her fine was therefore reduced from \$2800 to \$2700 with six months to pay (Gray-García 2006). In this time, Gray-García was unable to pay and found her mother and herself without housing again. Their first night back to sleeping in their car, Gray-García was arrested on what she believed “was clearly a [Driving While Poor]

stop," when the officer ran her license and saw the warrant for unpaid tickets (2006:143).

In jail, Gray-García heard other stories similar to her own. Penny, a woman who was homeless from leaving her abusive husband was arrested for \$3200 in fines for the expiration of the registration of her car and one moving violation (2006). When a newcomer was asked why she was there, she said (2006:148):

"Warrants. I couldn't keep up with my community service assignment and pay for childcare, so I looked for a job, but there wasn't enough money to pay the tickets to survive. So I went back to court to ask for an extension or lower payments, or even a smaller community service assignment, but the judge said there was no more community service and \$50 a month is the least you can pay. So I just gave up. Three months later they caught me--wrong place, wrong time."

Gray-García was eventually released from jail, assigned with 2700 hours of community service instead of the \$2700 she owed. However, she found this assignment to be nearly impossible (2006:172):

"I barely completed 100 hours. I could not help my mom, buy and paint enough shirts to get enough money to eat and/or pay for a room or rent, sell them on the street, move in and out of hotel rooms, cars and apartments and do all of those hours. I gave up, deciding instead to 'not deal with it right now.' In fact, not really deciding anything. Decisions born from overwhelming situations just happen to folks."

This came back to affect her when she was pulled over for what she identified as a “Driving While Poor” stop and lied to the police officer about her license number in hopes of going free, which led to her second arrest (2006). All of these cases demonstrate the cycle of poverty perpetuated by the system of criminalization. The subjects here were caught in a trap of poverty, which was exacerbated by criminalization.

The Loss of Personal Property

One way that criminalization perpetuates the unsustainable cycle of homelessness is the loss of personal property in sweeps or arrests (NCH 2004). In the experience of Katy, one of Amster’s interviewees in Tempe, these sweeps often result in the burning of residents’ clothes and IDs (Amster 2008). The NLCHP identifies a similar pattern, with many people losing possessions including IDs and medications from arrests and sweeps, as noted in previous sections (2014).

After their home in Lawrence, Kansas was leveled, a camper remarked, “It’s all gone, everything. I know a grown man ain’t supposed to cry, but this is the last straw. Ain’t nobody read the Ten Commandments, the part where it says ‘thou shalt not steal’? That’s what they did, they stole everything I had,” (NCH 2004:54) This raid was preceded by a ten-minute warning. These such individuals have few material possessions and fewer options to store them. John Harrison speaks to the challenges of finding space to store belongings where they won’t be thrown away (NLCHP 2014:27):

“A number of us [homeless] would leave our possessions in these hedges that were in a median along New York Avenue so that we didn’t have to carry everything we had with us. There was a metropolitan police officer who took it upon himself to take what amounted to, basically, our worldly possessions. He one time came with his police car with a garbage truck following him, rooting through the bushes, to get our stuff and throw it away... Our belongings were so obviously those of someone just barely scraping by. And it went further. The city also re-landscaped that whole stretch of New York Avenue to entirely eliminate the hedges in which we could conceal our things. And now if you walk by there, the plants are about 8 inches tall.”

Sometimes the loss of a certain item can be particularly devastating. A camper lost their guitar that they used to earn tips: “I have no way to replace my guitar. I can’t work. My back is bad, I got a bad heart. I have no money,” (NCH 2004:54). For this individual, their guitar was their livelihood and its loss was likely a sizeable setback. Lawrence Lee Smith of Boise, Idaho lost his tent, stove, and fishing equipment, all of which he used for survival, after being cited and jailed for illegal camping. Shelters in his area were overcrowded (NLCHP 2014). For Smith and others like him, this loss of personal property leaves more things that need to be replaced when they have nowhere to go upon release from jail. Other items reported lost have included a wheelchair, wedding pictures, the wedding ring of a resident’s grandmother, and social security paperwork (NLCHP 2014). Sandra Thomas caught pneumonia after losing their clothes and blankets (NLCHP 2014). These items may be important to prevent a

worsening of conditions as with Thomas's case. The loss of wedding pictures or family heirlooms may also include a loss of a sense of normalcy, which may be rare when living without shelter.

Upon Tiny Gray-García's arrest, her car was seized due to unpaid tickets (2006). The cost of having the DMV keep the car as well as trying to get it back piled up to more than the car itself was worth. Gray-García noted that "the car's rent was paid in lieu of ours," (2006:154). In her case, the loss of the car, which was crucial to the livelihood of her and her mother, also added to their already large financial stress. The above examples speak to the cycle of poverty and the harm that criminalization brings to people experiencing houselessness.

Harassment and Mistreatment

For many people experiencing houselessness, interactions with the police are characterized by what they consider harassment (Amster 2008, Robinson & Sickels 2015, NLCHP 2014). In 1991, Gregg Barak surveyed 300 street people in San Francisco with regards to harassment. Of these respondents:

- 96% reported being told to "move on" when they were doing nothing wrong,
- 93% reported being ordered to produce ID without cause,
- 80% reported having their possessions, clothes, or body search for no reason,
- 50% reported being brutalized or physically beaten by a police officer.

More recently, the Western Regional Advocacy Project (WRAP) conducted a similar survey of 1527 people experiencing houselessness across the United States with similar results (2015):

- 70% reported harassment without any laws cited
- 58% believed their appearance of being houseless was the origin of their harassment, citation, or arrest
- For sleeping, 81% reported harassment, 49% citations, and 29% arrests
- For sitting or lying down, 76% reported harassment, 42% citations, and 24% arrests
- For loitering, 74% reported harassment, 41% citations, and 24% arrests

This tells us that harassment continues to be a problem associated with the criminalization of houselessness.

Harassment can be connected to a loss of dignity for people experiencing houselessness. “Sarah,” a homeless panhandler in Yakima, Washington, notes the difficulties of panhandling, saying, “It’s embarrassing: one, to have to beg; two, it’s even more embarrassing that I don’t have a criminal background and I’m being harassed by the police,” (NLCHP 2014:21). For Sarah and others like her, harassment serves as a constant reminder of the social stigma associated with experiencing houselessness. In another example of a loss of dignity, Los Angeles resident Mitchell Hart had to sleep on the floor of an overcrowded jail after being arrested for panhandling, stating feelings of harassment and abuse--that “they treat a dog better,” (NCH 2004:26). Stories of harassment are often peppered with recurring themes and

stereotypes associated with people experiencing houselessness. When Tiny Gray-García was booked in the Berkeley City jail after her arrest for unpaid tickets, "...the policeman implied that [she] was 'lazy,' and that's the reason why [she] was in jail..." (Gray-García 2006:145). During a sweep of Doug Barr's camp in St. George Utah, police went through their personal belongings and confiscated a friend's possessions. "Harassment is not even the word for it. I was called, personally, a worm," Doug said. "I was told that if I was caught on the bike trail, either riding my bike or walking on the trail, that I was going to Purgatory [jail]. I was also told to spread the word to all my 'transient bum friends.' They treated me like I was a piece of garbage," (NCH 2004:72).

Feelings of belittlement may have adverse impacts on the self-esteem of people experiencing houselessness, causing them to internalize a sense of inferiority. This loss of dignity may cause physical barriers against escaping houselessness and poverty to become psychological, inhibiting one's motivation to improve their life chances. Harmful labelling may discourage people experiencing houselessness and create a self-fulfilling prophecy that one will never overcome their obstacles. Harassment from members of the housed community may also contribute to the isolation and alienation of the houseless community, causing them to become less comfortable with the idea of re-entering into housing. When people repeatedly hear stereotypes about themselves, some may actively oppose those stereotypes, but others may burn out after and become disenfranchised. The energy required to oppose negative stigma may be more than an individual's capacity to do that and live their daily lives in the

face of hardship. Alternatively, humanization may help to provide some of the needed emotional support to overcome physical and psychological obstacles.

At its worst, harassment can become physically violent. A woman experiencing houselessness in Portland, Oregon reported being repeatedly kicked awake by a police officer and taken to a patrol car. She stated that another officer convinced them to let her go, but they kept her personal belongings (NCH 2004). "Bob" from Denver had a similar story (Robinson and Sickels 2015:49):

"Law-enforcement treats me pretty rough. I've had things happen to me that I've never reported. I've been kicked in my sleep, kicked in the face. I fell asleep not too far away from Coors Field, in a dumpster area. I thought I was off the beaten path, but then a security guard and a police man found me. I knew it was them because there was a big flashlight in my face. I stood up and saw them. They gave me a few choice of words, "get out of here, you f-ing bum, if I catch you here again, you're going to get it worse." This was at 2:30 in the morning, now I have to find somewhere else to deal with the rest of my day. I will never forget that one, it was a thunderstorm that night and that's the only cover I had. But hey, they didn't kill me. I walked away from that."

This sort of treatment may exacerbate conditions associated with experiencing houselessness, such as illness or disability. This may make it more difficult for individuals to continue with their daily lives and tasks, which may include employment.

For some, police brutality can become deadly. Marvin Booker, a 135-pound street preacher experiencing houselessness, died in police custody from the excessive force of four officers in July of 2010 (Robinson and Sickels 2015). He was jailed for failure to appear in court after a drug paraphernalia charge. Robinson and Sickels recount (2015:50):

“When Booker had turned away from an officer, without permission, to retrieve his shoes that were [lying] behind him in the holding cell, four police officers quickly threw him to the floor, handcuffed him, sat on him for four minutes, and applied a carotid chokehold until Booker passed out. As Booker struggled for his final [breaths] under the officers’ weight, another officer left to retrieve a taser and then tasered Booker for eight seconds. Even after Booker went limp and lay on the floor with no pulse, officers did not summon medical attention but simply drug him to a cell and left him dead.”

Another deadly encounter occurred between the police and Charley “Africa” Keunang, an unarmed houseless black man, on Skid Row in Los Angeles in March of 2015. On what the Los Angeles Police Department (LAPD) reported to be a robbery call, security camera footage confirmed that five police officers had a long conversation with Africa outside of his tent before tasing him and dragging him outside. A struggle then ensued in which the police officers claimed that Africa reached for an officer’s gun and Africa was shot in the back five times as he was wrestled to the ground. Residents and people who knew Africa reported that he suffered from severe mental illness (Rice 2015).

These encounters may be viewed as isolated or extreme incidents, but they fit into the larger picture of police harassment and brutality. In the worst cases, police harassment can be deadly. In the best cases, it is still harmful to people experiencing homelessness and detrimental to them living their daily lives. This is another point in the unsustainable cycle of poverty and criminalization, adding to the barriers preventing people experiencing homelessness from meeting their needs.

Feelings of Discrimination

Some people who experience homelessness feel that they are being discriminated against (WRAP 2015). They note that while experiencing homelessness is not directly criminalized, these laws criminalize actions that are well integrated into the survival needs of people experiencing homelessness (NCH 2004). A woman who experienced homelessness and slept in her car said of her home of Union City, California's ordinance against sleeping in vehicles: "Being homeless isn't illegal but apparently sleeping in your car is...Now you tell me, how can you be homeless and not sleep in your car?" (NCH 2004:76). In response to Manchester, New Hampshire's anti-food sharing law, Lindsay Deannesolis remarked that people must think, "Oh you're homeless. You are going to cause a problem. Not necessarily. Yeah, a lot of us are down on our luck but we're trying. We're trying to find a job," (NCH 2014:10).

In some cities, certain enforcement agencies become infamous with allegations of discrimination (NCH 2004). A homeless resident of Tucson, Arizona remarked, "[University of Arizona] police are notorious for being negative towards the

homeless...[Tucson PD] isn't as bad. Campus police don't have as much experience on the streets. [UAPD] are like certified security guards," (NCH 2004:75).

Discrimination is crucial to analyze in issues of social sustainability. A human rights approach to social sustainability requires ensuring people's ability to meet their needs free from discrimination. Sustainable development should consider these voices in decision making to prevent further feelings of discrimination.

Reactions to Criminalization

Some residents experiencing houselessness have critiques with regard to the language that gets used in law enforcement. After being cited with "disorderly conduct" for sleeping in public, a houseless resident of Atlanta, Georgia said, "I can't be disorderly if I'm asleep," (NCH 2004:19). Language is important to analyze because it contributes to perceptions around people experiencing houselessness. As noted in the literature review, perceptions of "disorder" are socially constructed and laden with implicit bias (Sampson & Raudenbush 2004). This sort of language reinforces the justifications for criminalizing people experiencing houselessness by labelling their actions.

When Athens, Georgia began a campaign to put up signs discouraging giving to panhandlers, one houseless resident remarked that while better than criminalization, these signs give the wrong message about panhandling. The primary reason this resident panhandled was for food; they noted that others panhandled for survival (NCH 2004). Other people experiencing houselessness also challenge misconceptions

of the reasons that people panhandle. A houseless resident of Denton, Texas remarked of a local panhandling ban: “That might stop some artificial dudes that have five dogs and live in a house, but for the real homeless, it’s just a hardship,” (NCH 2004:45). On the same note, a Durham, North Carolina resident said, “I’m just trying to do my best and get on my feet. I’m not hurting anyone,” (NCH 2004:46)

A resident from Savannah, Georgia pointed out the importance of certain spaces that people experiencing houselessness are removed from: “We used to be able to show up at the square and pick up day jobs. Then we were arrested for being where we were hired for work. Now we are often sent out to do community service on the same jobs that we used to get paid to do,” (NCH 2004:69).

Richard takes issue with a flaw in the practice of displacing people experiencing houselessness: “Unless you get [the homeless] a place to go, they’ve got to go somewhere... They’re going to disperse. You hit a bunch of marbles in the middle, they splatter,” (NLCHP and NCH 2009:34).

In her activist work, Tiny Gray-García created an empathy exercise based on the experiences of very low income parents (2006:240):

“You are a single parent with three children aged one, three, and five. You just acquired employment, which was very difficult for you to obtain because you have no high school diploma and it’s a very competitive job market. It’s a 40-hour-a-week job but you can only get free child care for 15 hours a week. This means you will only end up with enough money to cover the cost of your child care and utilities, but not enough for rent. What would you do?”

Gray-García points out that there are almost no options that are legal and socially acceptable (2006). The most legitimate option would probably be to ask others for help by watching the kids for free, but that's assuming that this individual has the kind of network necessary to make that work, and even then, they might not be left with enough money to pay for rent and utilities and food. Gray-García remarks that this nearly impossible situation is incredibly common (2006).

When planning sustainable community development, these are some of the topics that are often forgotten. When sustainability organizers make decisions, they need to be sure to remember the social aspect of sustainability and include the perspectives of every community member.

Activism and Breaking Laws as an Act of Resistance

The more bold groups of houseless activists engage in criminalized activities for their own survival as well as that of the houseless community (Gray-García 2006, Corr 1999). For Tiny Gray-García and her mother, Dee, this was in the form of moving into a place without paying money, or "squatting," (2006). For Gray-García, it became an act of resistance that she called "homesteading," (2006:158). She and her mother used the local law that granted tenants' rights after 30 days--the same law that had hotel and motel managers kicking them out before 30 days--to their advantage; this required a court eviction process rather than removal by the police (2006).

The recession of the 1980s brought on a wave of houselessness, which brought many houseless activist groups to begin to lay down roots, including "Community on

the Move Homesteaders Association in the Bronx, Kensington Welfare Rights Union in Philadelphia, Mad Housers in Atlanta and Chicago, Drop-in Center in Cincinnati, Homes Not Jails in San Francisco, and similar groups in almost every major U.S. urban area," (Corr 1999:18). These groups used squatting as a tactic to reclaim unused building space for sheltering people without shelter (Corr 1999).

The first Homes Not Jails squat consisted of a diverse group of thirty formerly houseless people, who occupied an abandoned former homeless shelter, pooled their food stamps for communal cooking, and worked on repairing the building to make it a home (Corr 1999). Ted Gullickson, one of the leaders of the squat from the San Francisco Tenants Union, noticed an impressive improvement (Corr 1999:23):

"What most inspired me was the massive transformations in people. They got jobs by being able to finally stabilize their lives. People who moved in with shopping carts full of stuff, who had to get in line for shelter and scrounge around for food and General Assistance, finally found a place where they could take a shower, cook their own meal, leave their belongings, and go out and apply for jobs,"

The squat lasted for two months before being evicted by the police (Corr 1999).

Anders Corr found that the squatting movement was largely white and that people of color tended to prefer outdoor camping (1999). This was in part due to the preference of people of color experiencing houselessness to avoid the police. Native American squatter Whirlwind explained, "African Americans have reluctance because of the police. They have the experience the cops beat them and ask questions later,"

(Corr 1999:26). People of color were less inclined to join public takeovers or short-term squats due to the high risk of arrest and/or eviction and low probability of reward. Corr did find, however, that the majority of residents of long-term squats were people of color (1999). This example speaks to the importance of analyzing the intersecting needs of houseless people of color as they differ from their white counterparts. It's also important to understand that people with different life circumstances are going to participate in activism differently, especially when taking personal safety into account.

The squatting/homesteading movement makes an interesting case when considering sustainability. Rather than pouring resources into building new facilities for people experiencing houselessness, it suggests using already existing resources to meet unmet needs. This serves as a reminder that a community does not necessarily have to use an excess of resources to meet these needs, but likely already has the resources available.

Artwork as a Tool for Activism

In activist movements to advocate for the rights of people experiencing houselessness, art becomes a very useful tool. Not only does it help to communicate a message to any onlookers, striving to generate empathy towards issues, it also can provide a powerful medium for people to share their stories. The artwork below provides an example of just that.

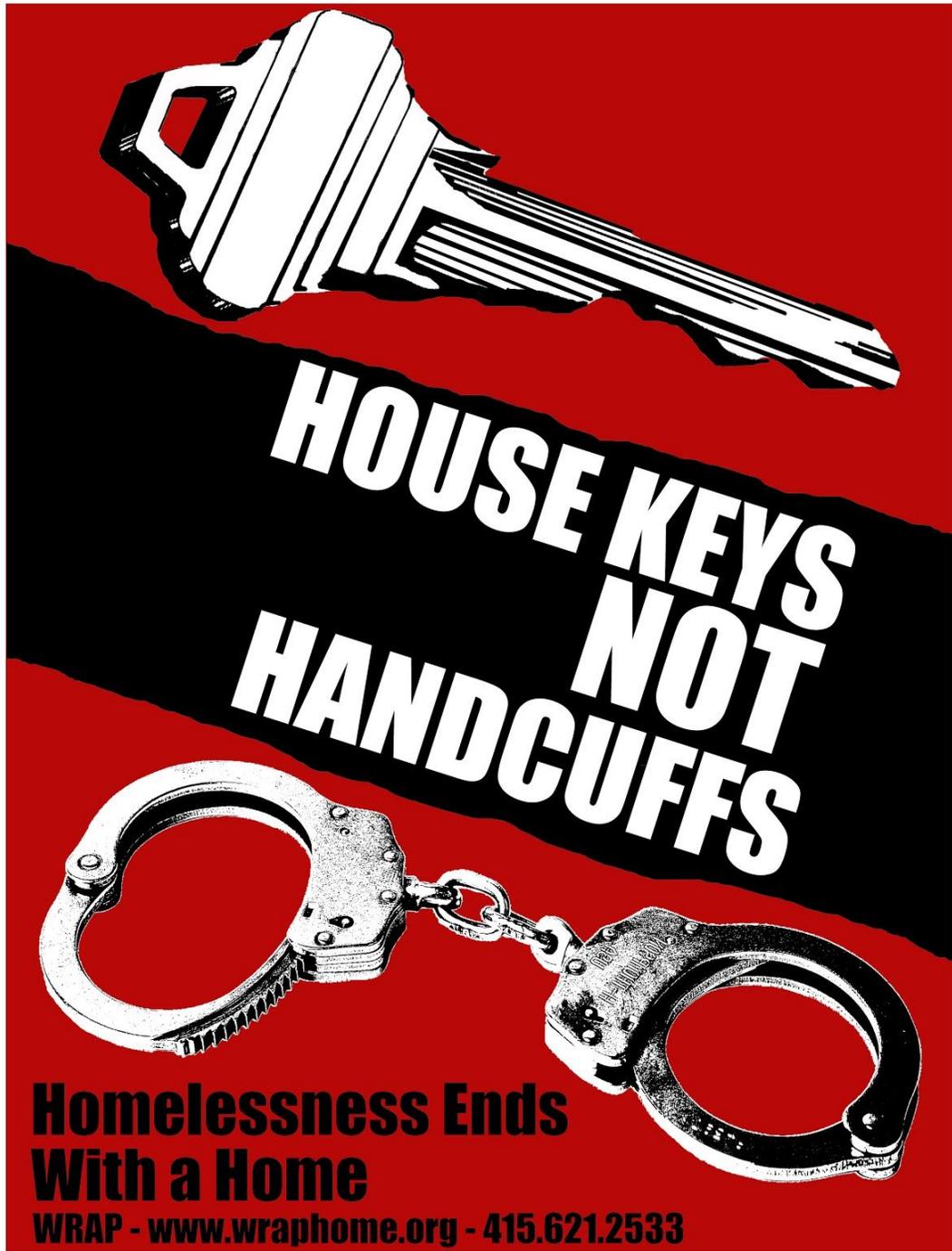


Figure 1. San Francisco Print Collective 2010, Courtesy of the Western Regional Advocacy Project

Figure 1 has appeared on many signs carried by WRAP protesters. It makes a simple statement: “house keys not handcuffs.” It speaks to the need for a supportive housing model rather than criminalization, asserting that criminalization is not helping the houseless community. In his book *House Keys Not Handcuffs: Homeless Organizing, Art and Politics in San Francisco and Beyond*, Paul Boden, executive director of WRAP, describes this image (2015:7):

“WRAP Uses the phrase House Keys Not Handcuffs as a rallying cry. It connects in a few words the struggle against the criminalization of people forced to live in our streets and the struggle for housing for all. The [San Francisco Print Collective] created this bold image that stands out on protest placards with a clear message.”

We Won't Get Fooled Again!

Fighting For Our Right To Exist



artwork: Art Hazelwood

National Day of Action!!

April 1, 2012

Local contact:



National Contact: WRAP
Western Regional Advocacy Project
wrap@wraphome.org

Figure 2. Hazelwood 2012, Artwork Courtesy of the Western Regional Advocacy Project

Art Hazelwood depicts the struggle between people experiencing houselessness and the police in Figure 2. In this image, a large group of small people use picket signs, megaphones, and grappling hooks against a large monster in a police uniform and their dog. The monster's head is the top of the pyramid depicted on the back of a one dollar bill, with a banner above stating "e pluribus one %" and bags of money around their neck. All of these symbols represent law enforcement's priority of money and serving the wealthy. The dog's head reiterates this, labelled with the names of banks including Wells Fargo, AIG, and Citi. The body of the dog is labelled with ordinances including "no sitting" and "no sleeping." Words coming out of the dog's mouth as if they were barks represent past and present laws that have discriminated against marginalized groups, including "Jim Crow," "Bracero Treaty," and "Quality of Life Crimes." The poster is headed with "We Won't Get Fooled Again! Fighting For Our Right To Exist." The first line makes a reference to the famous song by The Who with the same name, which discusses revolution and the fall of oppressive governments while also expressing the hope to learn from the past and prevent the same patterns from repeating. "Fighting For Our Right to Exist" speaks to the marginalization felt from not being allowed to occupy public space. Finally, the size of the subjects of this piece represent the power held by each and reminding activists of the necessity of organizing to strengthen the cause.

Boden says of this piece (2015:43):

"While the Occupy Movement was still active, WRAP organized a national day of action that included groups in 14 cities across the US and in Canada. April Fools

day was chosen to mark the spirit which WRAP employs in protest actions--having fun in the struggle. The image portrays the cop of capitalism and his dog of hate whose belly holds a prison. Ranged against these beasts are a joyous band of lilliputians that may yet upset his plans of punishment and scapegoating."

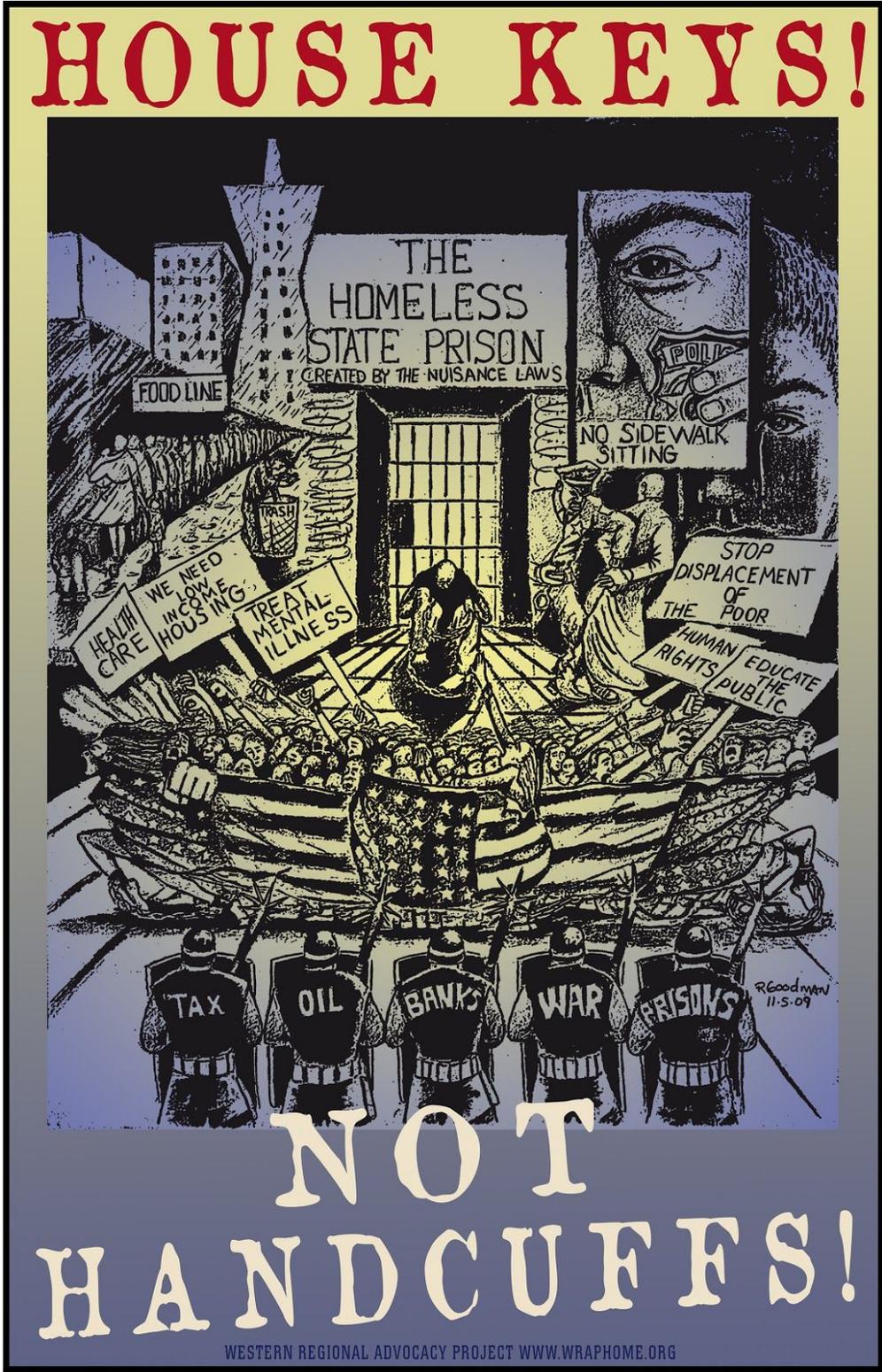


Figure 3. Goodman 2009, Artwork Courtesy of the Western Regional Advocacy Project

Figure 3 echoes the refrain of Figure 1 superimposed over a piece by Ronnie Goodman titled "Homeless State Prison." The piece states that the Homeless State Prison was "created by the nuisance laws" including bans on sidewalk sitting. In it, a group of protesters calling for health care, low income housing, treating mental illness, stopping the displacement of the poor, human rights, and educating the public stand off against riot police representing taxes, oil, banks, war, and prisons. Like Figure 2, this piece represents who law enforcement appears to stand for, to the detriment of people lacking in rights.

Boden notes (2015:42):

"Ronnie Goodman created this print connecting the issues impacting poor communities while in the San Quentin State Prison. His personal experience with homelessness and prison coupled with his artistic skill led to this powerful piece. Shortly after creating this print Goodman was released into the exact system he represented--from prison to homelessness. He continues to create multiple works for WRAP, Hospitality House, and Street Sheet, making him one of the most prolific artists to create work on these issues in recent years."

Proposed Solutions from the Community

The houseless community is not lacking in ideas for alternatives to criminalizing houselessness. While some may seem far-fetched, others may fit well with current community planning. Considering some of these suggestions may be a good first step to resilient and equitable decision-making.

Tiny Gray-García founded POOR Magazine and the POOR News Network (PNN) as a media organization for and by poor people (Gray-García 2006). This organization seeks to empower and bring justice to the poor community (POOR Magazine n.d.). When writing about the criminalization of homelessness, PNN author Terrilyn Woodfin appears to sympathize with the squatting movement, saying, "When you've got hundreds of empty abandoned houses and apartment units there shouldn't be a problem with finding adequate housing for people who don't have a place to live," (2012). PNN has also supported the "Ban the Box" campaign, which seeks to remove the question of whether or not one has committed a crime from applications for jobs, housing, financial aid, and welfare (Lee & Tiny 2006). This movement has the potential to interrupt the cycle of poverty created by criminalization, as "the box" can frequently be used as a reason to discard an application.

In Berkeley in 1998, a group of homeless youth sought a solution to the issues that their survival brought. They offered to stop urinating and sleeping in the streets, to panhandle in small groups, to leash their dogs, and to pick up their trash in exchange for the city to provide the facilities to do so, including trash cans, a dog run, clean public restrooms, and a youth shelter. At the time, those who proposed this plan were pessimistic with regards to being taken seriously, acknowledging that "they're making us out to be devils (Nieves 1998, quoted in Amster 2008:98)."

A group in Sacramento, California has proposed something similar. Safe Ground is the proposed alternative to the Tent City that was shut down by the City government. Safe Ground would involve the approval of the City as well as

collaboration with a nonprofit sponsor. Another crucial aspect is its access to running water and hygiene facilities. This would center all of the the necessary services for people experiencing houselessness in a legal manner (Rhodes 2009).

Houseless resident Lynn Key also had an idea to keep people from sleeping on streets. Deemed one of the “first homeless targets” of crackdowns in Cleveland, Key was arrested for disorderly conduct after refusing to move from his sleeping place outside of the county welfare office, stating that he had nowhere to go due to being banned from downtown emergency shelters for being drunk. Key suggested, “If the city doesn’t want them on the streets, they should open City Hall and let them sleep in there (O’Malley 1999, quoted in Amster 2008:98).”

When it comes to decision-making, it’s important to center the voices of people experiencing houselessness. Out of necessity, they are a resilient and creative community. If local governments are seeking a sustainable and constructive alternative to criminalizing houselessness, the houseless community can serve as a useful resource.

Conclusions and Recommendations

In the words of Margaret Kohn, “No amount of criminalization or harassment can prevent people from performing activities intrinsic to life itself, although policing strategies certainly can confine the homeless to certain limited zones of the city that are out of sight of the more affluent citizens,” (2004:167). Ideas of meritocracy allow people with privilege to rationalize inequality and punishing those with less privilege,

allowing inequitable systems to stay in place (O'Brien 1999). To overcome this, we as a society need to overcome the stigma associated with houselessness and adopt a cultural attitude focused on humanization. Some steps toward this may include programs or volunteering opportunities that facilitate dialogue between houseless and housed people, perhaps leading to more empathy and compassion.

When communities plan for sustainability, they need to holistically consider social, economic, and environmental factors as they work together. The criminalization of houselessness is socially and economically costly to the entire community, particularly people experiencing houselessness. To combat this, every demographic should be represented in discussions and decision-making. Actual people experiencing houselessness, not just advocates and service providers, need to be invited to the table. In this process, concepts like "livability" and "quality of life" need to include the quality of *everyone's* life, not just that of a select group of people. Otherwise, no claims of sustainability can be made, as the needs of an entire group of people would continue to be unmet and blockaded.

A sustainable community needs to be dynamic and resilient. It needs to address the diverse needs of different groups as they identify them. It needs to adapt over time to best suit those needs as they change. A resilient community is also creative and finds room to thrive in the face of hardship. The houseless community has experience in this area and may have insights for the rest of the community. A collaboration that includes diverse perspectives has much more potential for

resilience than decisions made by one group with one perspective. Growth and strength arise from challenges.

Ultimately, people on every side of this issue want to prevent crime from happening. The question remains whether we should focus on behaviors that may be symptoms of this problem or the problem's root causes. The reality of houselessness and the baggage that comes with it is unpleasant and uncomfortable to deal with. That being said, sweeping this issue under the rug--or rather, to a new zone or new city--does not make it disappear. To address the issue of houselessness that creates suffering for people without housing and discomfort for people with housing, we collectively as a society need to examine the root causes. We need to address high costs of living and the lack of employment and adequate payment. We need adequate resources for mental health care and drug treatment. Promising headway is being made with programs such as Housing First, which have led to declines in houselessness and its adverse effects in several communities (Watson et al. 2013, Tsemberis, Gulcur, & Nakae 2004). We can also move to adopt a houseless bill of rights, acknowledging the rights of people experiencing houselessness to perform daily actions necessary for survival as well as provide the resources to make that happen outside of the public sphere. Overall, providing more opportunities and support for people experiencing houselessness is more effective than punishment in alleviating issues of houselessness. This is a multi-faceted problem; there is no one simple solution. It's going to take the collaboration of every member of the community to tackle it.

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