



NO RIGHT TO REST

Criminalizing Homelessness in Colorado

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Survey Design and Data Collection

by Denver Homeless Out Loud

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- Prax(us)

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Their insights reveal the consequences of public policy on the quality of life for some of Colorado's most vulnerable residents.

Their voices deserve to be heard.



About Denver Homeless Out Loud

Denver Homeless Out Loud (DHOL) works with and for people who experience homelessness, to solve the issues that arise from the experience of homelessness. We work to help protect and advocate for dignity, rights and choices for people experiencing homelessness. To these ends, we commit our efforts toward goals affirmed and raised by homeless people, within our organization and without. We strive to add our strengths together to create ways of living in which everyone has a place they can call home.

DHOL can be reached at:
<http://denverhomelessoutloud.org>

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Executive Summary



In Denver, it is illegal for homeless residents to sleep or sit on downtown sidewalks, or to use any form of shelter from the cold or sun other than their clothing. In Boulder, city officials have put homeless people on trial for using a backpack pillow as a form of “shelter,” since it is used to keep one’s head from touching the ground. In Grand Junction, officials have locked public bathrooms and shut down water fountains in downtown parks so as to discourage homeless people from coming to the area. In Durango, a peaceful street guitar player was ticketed due to having his guitar case open to accept donations. All across Colorado, jurisdictions are increasingly treating homelessness as a criminal condition, and are illegalizing the activities of homeless people in public spaces.

Admittedly, Colorado cities are facing a profound and growing challenge of homeless people struggling to survive in public places. As poverty levels remain high, low-income housing units disappear, and housing prices rise, homeless remains a tremendous problem across the state. In most official studies of housing markets, local officials recognize that there is inadequate low-income housing stock, and that thousands of people across the state, every night, have little choice but to sleep on the streets, in cars, or in parks.

But even while recognizing that thousands of Colorado residents have no choice but to live in public places, Colorado officials are increasingly making it illegal to do so. All across the state, cities are declaring that people without homes have no right to rest within their borders, and are mobilizing substantial police resources to enforce those laws.

This study examines the consequences of criminalizing homelessness in Colorado, from the point of view of homeless people themselves. The study reports on a poll of 441 homeless individuals from across Colorado regarding their interactions with police and private security forces and reports on how criminalization is undermining the quality of life for homeless people, violating constitutional and human rights, costing localities millions in enforcement dollars, and increasing the likelihood that people will remain homeless.

Criminalization of Homelessness: Policing Practices in Colorado

All across America, and in Colorado, jurisdictions are passing an increasing number of laws banning the survival activities of homeless people, such as bans on sleeping, sitting, loitering, using shelter, or panhandling. The survey in this report shows that the growth of such laws has resulted in substantial police engagement with homeless people, often resulting in citations and arrest. Findings include:

- 36% of survey respondents have been arrested for a crime of homelessness;

- 70% of survey respondents have been ticketed for a crime of homelessness;
- 90% of survey respondents report police harassment for a crime of homelessness.

Extra-Judicial Policing

In addition to formal citation and arrest, this survey finds evidence of substantial extra-judicial harassment of homeless people. Both police and private security forces commonly harass and enforce punishments on homeless people, even without legal authority to do so.

- 76% of respondents report frequent harassment by police or private security guards without due process of law.
- 61% of our respondents report having their belongings taken by police during an encounter, and only 19% ever got those belongings back.
- 72% of respondents report “rough treatment” by police or private security. Documented cases of “rough treatment” discussed in this report include: homeless residents being kicked in the face, police officers slashing holes in people’s tents and destroying their bicycles without legal authority, and one homeless man brutally choked and tasered to death while handcuffed in police custody.

Violations of Basic Rights

All across Colorado, homeless people are being denied access to basic rights of human existence.

- 83% have been denied access to a bathroom, due to the increasing scarcity of public restrooms.
- 73% have been turned away from shelters, without an alternative place to go.
- 67% have been denied a job due to their homeless appearance.
- 63% have found difficulty accessing clean water.
- 60% report that they frequently cannot get a night’s sleep due to constant police efforts to “move them along.”

A summary of people’s experiences in dealing with the criminalization of homelessness in Colorado is provided in Table 1.

Table 1. Persistent Violations of the Rights of Homeless People¹

No Right to Rest: Persistent Violations of the Rights of Homeless People			
Results from Survey of 441 People Living Without Homes in Colorado			
Have you Ever Been Ticketed, Arrested, or Harassed for one of the violations listed below?			
(90% of Respondents Answered “Yes” to at least one category listed below)			
Sleeping in Public	70%	Sitting on a Sidewalk or Street	64%
Loitering	50%	Park Curfew	48%
Using a Private Business Restroom	36%	Panhandling	35%
Sleeping in a Vehicle	24%	Trespassing	47%
Panhandling	35%	Sleeping in Vehicle	24%
Jaywalking	28%	Have you ever been arrested for one of these preceding crimes?	34%
Ever spent time in jail, due to lack of income to pay bail or a ticket for a minor infraction?	45%	Have police ever harassed you without a legal reason?	76%
Have police ever taken your belongings?	61%	If police did take your belongings, did you ever get them back?	19%
Have you witnessed private security guards harassing homeless people?	78%	Has anyone ever treated you roughly, either physically or verbally, because of your homelessness?	72%
Have you ever been turned away from a shelter, due to space limitations?	73%	Have you ever been denied access to a bathroom, due to your appearance as homeless?	83%
Has you ever lost access job to a job due to your appearance as homeless?	67%	Have you even been unable to access water, due to your homeless status?	63%
Have you ever been offered a place to stay in exchange for sexual liberties?	26%	I feel my rights have been violated because of my homeless status	86%
Number of tickets issued by Denver Police, 2010-2012, for five crimes of homelessness: Curfew, Panhandling, Sleep/Sit, Erecting Tent, Pedestrian in Roadway	3023	Policing cost to Larimer County, CO, for 4 years of arrests and incarceration of homeless people	\$8 million

Criminalizing Homelessness: Cruel, Unconstitutional and Counterproductive

These criminalization laws, policies and practices are cruel and harmful to homeless people, legally indefensible, and counterproductive in addressing the problem of homeless.

In terms of causing harm to homeless members of our community, the criminalization trend has multiple consequences. Criminalizing homelessness fosters fear and anxiety among Colorado's homeless residents, and causes a constant pattern of "moving along," loss of sleep and frequent incarceration. Even worse, episodes of harsh treatment and outright violence against homeless people at the hands of police and private security are too common.

These laws are also legally questionable in that they violate the constitutional rights of homeless individuals to free speech, to travel, and to be free of search and seizures without due process. They also violate fundamental human rights such as the right to sleep, the right to personal hygiene and the right to move through public spaces. They expose cities to legal suits by groups such as the ACLU—suits that are frequently lost, at substantial taxpayer expense.

Finally, these laws are costly to enforce and counterproductive to the goal of reducing homelessness. Policing, ticketing and arresting thousands of homeless people for their acts of public survival costs Colorado jurisdictions millions of dollars. Ironically, this kind of policing also exacerbates the problem of homelessness, in that problems with the criminal justice system only make it less likely that a homeless person will be able to break the cycle of homelessness. Constantly being "moved along" by police cases sleep fatigue, which reduces a person's cognitive capacities and increases risk of illness. Costly tickets and arrests create a criminal record, which makes it harder for a homeless person to secure housing or to land a job.

In sum, Colorado's policy of criminalizing homelessness has had three important consequences: it has reduced the quality of life for homeless people, it has resulted in millions of spent taxpayer dollars for policing and jails, and it has catalyzed longer, more troubled, spells of homelessness.

Towards a Right to Rest in Colorado

A better approach is called for. The Colorado right to rest act--proposed this year in the Colorado Legislature as HB-1284--would clarify Colorado's commitment to the constitutional and human rights of homeless people. Passing this act would immediately improve the quality of life for people without homes, would save localities money in policing costs, and would also make it easier for homeless people to stabilize their lives and move off the streets. Treating the homeless as criminals for their acts of public survival must stop. Colorado should have the conviction to honor the human rights of all residents, and take the ethical and pragmatic step of recognizing that everyone, rich or poor, has a right to rest.

HB-1264

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A BILL OF RIGHTS FOR PERSONS**
102 **EXPERIENCING HOMELESSNESS.**

Section 24-4.5-104. Protected rights of persons experiencing homelessness

- (1) A person experiencing homelessness is permitted to use public space in the same manner as any other person experiencing homelessness is permitted to use public space in the same manner as any other person without discrimination based on housing status. Every person in the state shall have the following basic human and civil rights, which may be exercised without being subject to criminal or civil sanctions or harassment by law enforcement, public or private security personnel, or district agents:
- (a) The right to use and move freely in public spaces without discrimination or time limitations that discriminate based on housing status;
 - (b) The right to rest in public spaces and protect oneself from the elements in a non-obstructive manner;
 - (c) The right to eat, share, accept, or give food in any public space where food is not prohibited;
 - (d) The right to occupy a motor vehicle, provided that the vehicle is legally parked on public property or parked on private property with the permission of the property owner; and
 - (e) The right to a reasonable expectation of privacy on one's personal property in public spaces to the same extent as personal property in a private residence or other private place.

* Note: The preceding language is from the Colorado Right to Rest Act, as originally introduced. As the Bill moves through the legislative process, amendments will naturally change some of the language and provisions of the Bill.

PART I

NO RIGHT TO REST:

Criminalizing Homelessness in Colorado



People Living in Public Places



On any given night in Colorado, thousands of people are sleeping without formal shelter—on the streets, in cars, and in parks.² They are sleeping outside for a multitude of reasons, including: increasing housing costs and a lack of affordable housing, the inability to earn a living wage, the recession with accompanying loss of jobs and high foreclosure rates, disabling medical conditions, medical bankruptcy, domestic violence, and an emergency shelter system that fails to meet the needs of people experiencing homelessness. Every night, therefore, thousands of people in Colorado seek to survive without formal shelter. Many have sought to shelter themselves on the streets for years, they will be looking to survive tonight, and they will continue to look for shelter on Colorado’s streets for the foreseeable future.

The most important cause of this homelessness crisis is a lack of affordable homes. Since 2001, over 12.8% of the nation’s supply of low income housing has been permanently lost, and investment in the development of new affordable housing has been insufficient to meet the need. The United States has lost about 200,000 units of low-income housing stock every year since the 1980s (about half of the nation’s entire low-income housing stock), so that today there are 6.4 million more low-income people than there are low-income housing units. For the subsidized low-income units that do remain, waiting lists are long. Nationwide, the average wait for a Section 8 housing voucher is 35 months. As a result of declines in both housing stock and housing assistance, today the poorest 20% of Americans spend 87% of their income every year simply on housing.³

Chart 1. Rents Increasingly Unaffordable

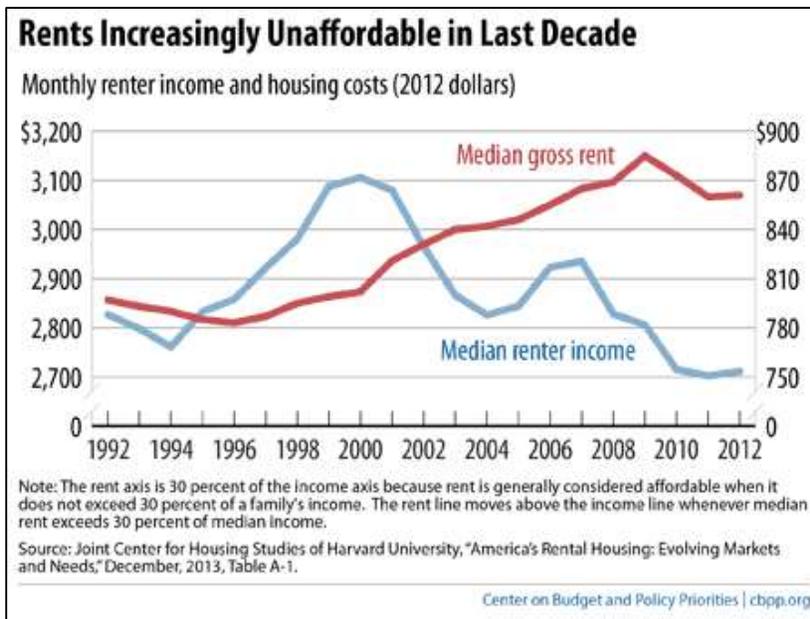
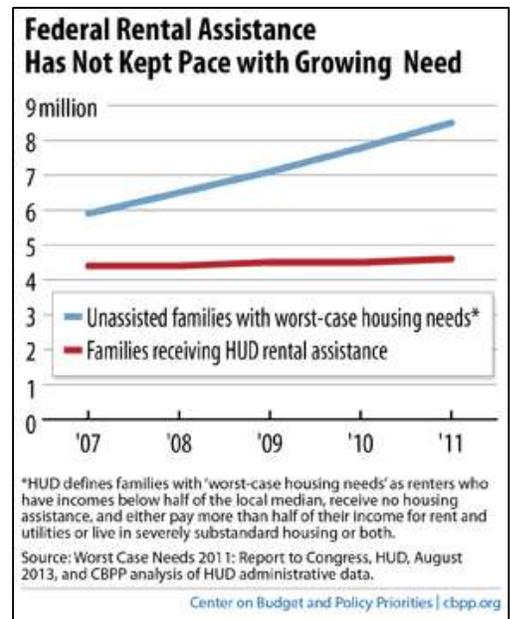


Chart 2. Inadequate Rental Assistance



Declining low-income housing stock correlates with rising homelessness as increasing numbers of people are simply unable to afford housing. When the federal government stopped funding new public housing—spending dropped from over \$16 billion per year in 1978 to nothing since 1996—homelessness quickly tripled or quadrupled in every major US city and has risen steadily since.⁴

The U.S. Department of Housing & Urban Development’s (“HUD”) 2014 Point-in-Time count reported that 578,424 people were homeless on a single night in America in 2014. Across the nation, 62% of reporting jurisdictions tell HUD that they have more homeless persons than shelter beds. As a result, the 2014 nationwide Point in Time survey estimates that 30.7% of all homeless individuals and families—more than 153,000 people— have no choice but sleep and seek shelter on the streets every night. Furthermore, “this count does not adequately capture the full picture of homelessness. The Point-in-Time count looks at people who are in shelters, transitional housing, or in observable public places on a single night. Not included, however, are people who are doubled up or couch surfing because they cannot afford their own places to live. Also excluded from the count are people in hospitals, mental health or substance abuse centers, jails or prisons with nowhere to go upon release.” As an example of the scale of these additional populations, national data indicates that there are 7.4 million people (1 in 11 households) currently living “doubled up” with friends or extended families, and at high risk of becoming homeless.⁵

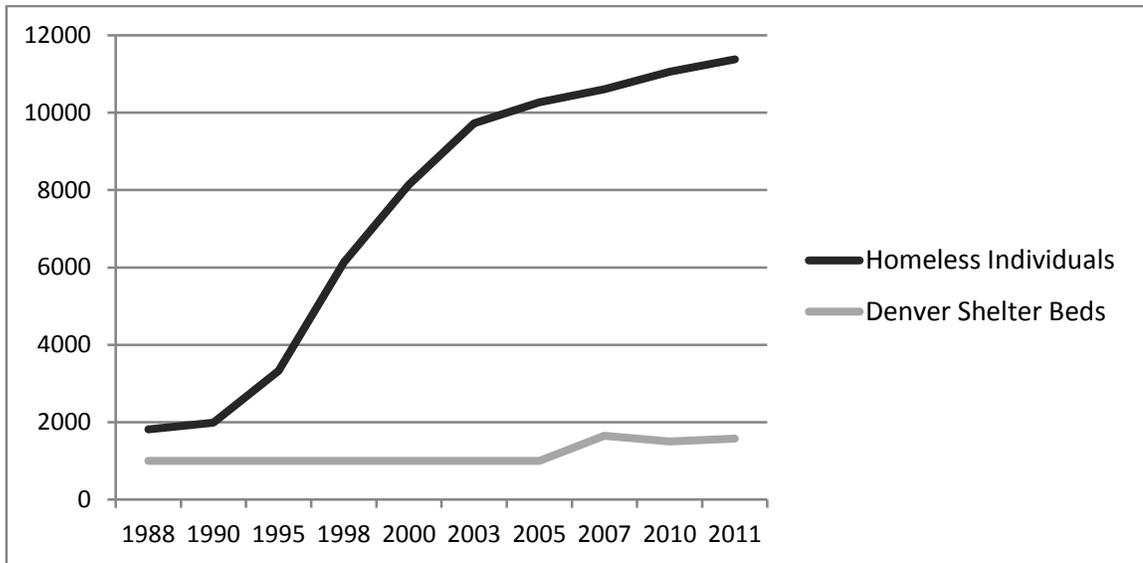
Things are particularly bad in Colorado. HUD data recently put the Denver rental market in the top third of the priciest rental markets in America, and Colorado is among the top third of states for the share of the workforce with a severe housing cost burden.⁶ A declining, inflation-adjusted minimum wage in Colorado means that in 2012, a minimum wage Colorado worker would have to work 88 hours a week, 52 weeks a year, to afford an average 1 bedroom apartment in the state.⁷ In 2010, a quarter of Colorado renters paid more than 50% of their income on housing and nearly 40% paid more than 30% of their income on housing.⁸ Housing Market Analysis reveals that more than 80% of low-income renters in Denver alone have an unaffordable rent burden (paying more than 30% of their income for rent), and that Denver needs an additional 25,647 low-income housing units to adequately shelter residents earning under \$20,000 a year.⁹ Statewide, The Colorado Division of Housing reports that the state doesn’t even have half the low-income housing units that it needs for households earning less than \$20,000.¹⁰

These patterns have led to a substantial homelessness crisis in Colorado. Though there are no reliable counts of homeless individuals and families across the entire state, we do know that approximately 23,000 homeless children attend schools in Colorado.¹¹

The city of Denver provides a good example of state-wide trends. Data shows that the number of homeless people in the Denver region has grown 600% in the last twenty years. Even as the number of Denver’s homeless residents has dramatically grown, moreover, the number of emergency shelter beds has been stagnant for years. In 1988 there were shelter

beds available for 55% of Denver’s homeless population; today shelter beds are available for only about 10% of this population.¹²

Chart 3. Denver Homeless Individuals and Shelter Bed Growth, 1988-2011



Sources: Denver Homeless Planning Group, “A Blueprint for Addressing Homelessness in Denver,” 2003; Metro Denver Homeless Initiatives Annual Point in Time Surveys; MDHI 2010 “Continuum of Care” NOFA Application.

The 2012 National Housing Alliance’s Assessment of the Denver Shelter System (commissioned by the city of Denver) found that “the shelter system in Denver has less public investment and less overall investment than in many other communities.”¹³ This assessment found that long wait times and an uncoordinated and inefficient entry system into shelters kept many people from accessing the shelter they needed. Indicating the scale of the problem, HUD’s 2011 count of homeless people nationwide put Colorado among the top five states in the nation for the percent of homeless people living without any shelter at all.¹⁴

What few shelter units there are, furthermore, do not always serve unique homeless populations, such as youth, couples (especially same-sex couples), fathers with children, people whose work hours conflict with shelter hours, people with pets, and those with mental or physical disabilities. As just one example of a severely unmet need, Denver has 1,792 homeless women (according to the 2012 MDHI count), but only about 275 shelter beds for these women. A count in 2011 showed that 850 women on any given night were competing for just 125 beds that were free each night.¹⁵ Crowds of women wait hours each day in queuing areas, hoping to win a lottery draw for a nightly bed—but in the end, more

women than not are turned away without shelter each night. Anxiety attacks, panicked fear and angry outbreaks are common as women wait in queuing areas for a space.¹⁶

Another under-served homeless population is the mentally ill (and dually diagnosed—those with mental illness and substance abuse). In 2011, more than 2,000 people who were homeless and mentally ill were on a waiting list for services at the Colorado Coalition for the Homeless' Stout Street clinic.¹⁷ A recent Denver Post column highlighted the deterioration of services to assist those struggling with mental illness in Colorado. "In 1955, there were over 300 inpatient psychiatric beds per 100,000 people in the United States. Today, according to the Treatment Advocacy Center, there are 14.1 beds per 100,000 people — the same number as in 1850. In 2009, Colorado had the fewest psychiatric beds in the country, according to the American College of Emergency Physicians. Now, Colorado is 48th out of the 50 states for psychiatric beds."¹⁸

In the last 25 years, Colorado housing prices have left thousands unable to afford housing, while public housing construction and housing assistance programs have withered, with the result that homelessness has increased dramatically. At the same time, shelter units have remained stagnant and can now only house about 10% of homeless people in the Denver area.¹⁹ These facts have led thousands of homeless residents to shelter themselves in Colorado's streets, parks and other public places. In response, local jurisdictions have chosen to illegalize the survival acts of these street populations—a dynamic that will be discussed in the following section of this report.

"Another challenge for [Denver] emergency shelters is addressing specific subpopulations, including people with pets, people with service animals, people who are intoxicated, childless couples, and fathers with their children. We were not able to identify any emergency shelter that takes pets..."

"Many of the shelters serve people who are intoxicated, although there appear to be no good options for youth who are intoxicated...There also appears to be no place for childless couples, although they can stay in separate shelters, or in the case of Samaritan House, in separate rooms of the shelter."

*--National Alliance to End Homelessness,
Denver Shelter Assessment (2012)*

"The number one issue is that if we doubled shelter services today, we still would not have enough to meet the needs of everybody in this city. No one could have predicted the economic situation that we sit in today."

-- Bennie Milliner, Executive Director, Denver's Road Home

Criminalizing Homelessness



“Homelessness continues to be a national crisis, affecting millions of people each year, including a rising number of families. Homeless people, like all people, must engage in activities such as sleeping or sitting down in order to survive. Yet, in communities across the nation, these harmless, unavoidable behaviors are treated as criminal activity under laws that criminalize homelessness.

Despite a lack of affordable housing and shelter space, many cities have chosen to criminally punish people living on the street from doing what any human being must do to survive.”

– National Law Center on Homelessness and Poverty, No Safe Place (2013).

As the number of unsheltered residents have increased, so have concerns among some public officials that the urban environment and business climate is being undermined by the presence of so many unsheltered homeless people, in public places. “There’s no question that we have serious concerns over the increased numbers of individuals on the streets,” said Tamara Door, President of the Downtown Denver Partnership.²⁰ “I want to get them off of our Main Street, and the 16th Street Mall is our Main Street,” said Denver Councilman Charlie Brown, as Denver’s 2012 camping ban was first being considered. “We have to stand up for our businesses downtown and our women and children who are afraid to go downtown. Are we supposed to just give in?”²¹

As a response to such concerns with the growing public concentration of unsheltered homeless people, an increasing number of cities are passing harsh and counterproductive new anti-homeless laws, banning everything from public sleeping to standing quietly on a sidewalk with a

container for coins. Hundreds of cities have passed laws punishing the survival activities of people living without homes. There are laws banning peaceful loitering, sleeping or sitting in public places, or even “area restrictions” banning repeat offenders (e.g., someone with multiple public panhandling tickets) from passing through downtown areas altogether. There is even a growing body of law prohibiting people from giving homeless people survival items such as a blanket, or from sharing food with homeless people without a license (see Figure 1).²²

Quite simply, local officials are admitting that there are inadequate affordable housing options and not enough shelter beds in any major city, and that thousands of people have no choice but to live on the streets. Nevertheless, “many cities have chosen to criminally punish people living on the street for doing what any human being must do to survive.”²³

In 2013, The National Law Center on Homelessness and Poverty surveyed 187 cities to assess “the number and type of municipal codes that criminalize the life-sustaining behaviors of homeless people.” The results of that survey (see Table 2) show a widespread and growing criminalization of homelessness in America. All across the country “cities are moving toward prohibiting unavoidable, life sustaining activities”²⁴ of people living without homes. Homelessness is increasingly treated as a criminal condition, and the matrix of anti-homeless laws is hard to escape.

Table 2. Criminalizing Homelessness: A Survey of 187 American Cities²⁵

Criminalizing Homelessness: A Survey of 187 American Cities	
Prohibition of “Camping” in Public (i.e., sheltering oneself from the elements in public)	
34% of cities impose city-wide bans; 57% prohibit “camping” in particular areas of the city	
Prohibition of Sleeping in Public	
18% of cities impose city-wide bans; 27% prohibit public sleeping in particular areas of the city	
Prohibition of Begging or Panhandling	
18% of cities impose city-wide bans; 27% prohibit panhandling in particular areas of the city	
Prohibition of Loitering, Loafing and Vagrancy	
33% of cities impose city-wide bans; 65% prohibit loitering in particular areas of the city	
Prohibition of Sitting or Lying Down in Public	
53% prohibit sitting or lying down in particular areas of the city	
Prohibition of Sleeping in Vehicles	
43% prohibit sleeping in vehicles anywhere in the city	
Prohibition of Food Sharing	
9% of cities prohibit sharing food with homeless people	

Figure 1. Attempted Food-Sharing Bans Nationwide

Source: National Coalition for the Homeless²⁶

Attempted Food-Sharing Bans Nationwide

ALABAMA

Birmingham

ARIZONA

Phoenix

ARKANSAS

Little Rock

COLORADO

Denver

Connecticut

Middletown

CALIFORNIA

Chico
Costa Mesa
Hayward
Los Angeles
Malibu
Ocean Beach
Pasadena
Sacramento
San Diego
San Francisco
Santa Monica
Ventura

FLORIDA

Daytona Beach
Fort Lauderdale
Fort Myers
Gainesville
Jacksonville
Lake Worth
Melbourne
Miami
Orlando
Palm Bay
Pinellas Park
Sarasota
St. Petersburg
Tampa
West Palm Beach

GEORGIA

Atlanta

INDIANA

Indianapolis
Lafayette

IOWA

Cedar Rapids
Davenport

KENTUCKY

Covington

MARYLAND

Baltimore

MISSOURI

Kansas City
St. Louis
Springfield

NORTH CAROLINA

Charlotte
Raleigh
Wilmington

NEW HAMPSHIRE

Manchester

NEW MEXICO

Albuquerque

NEW YORK

Hempstead
Huntington

NEVADA

Las Vegas

OHIO

Cincinnati
Cleveland
Dayton

OKLAHOMA

Oklahoma City
Shawnee

OREGON

Medford
Portland

PENNSYLVANIA

Harrisburg
Philadelphia

PUERTO RICO

San Juan

SOUTH CAROLINA

Columbia
Myrtle Beach

TENNESSEE

Chattanooga
Nashville

TEXAS

Corpus Christi
Dallas
Houston

UTAH

Salt Lake City

WASHINGTON

Olympia
Seattle
Sultan



Increase in Number of Municipalities Banning Homeless Survival Activities: 2011-2014

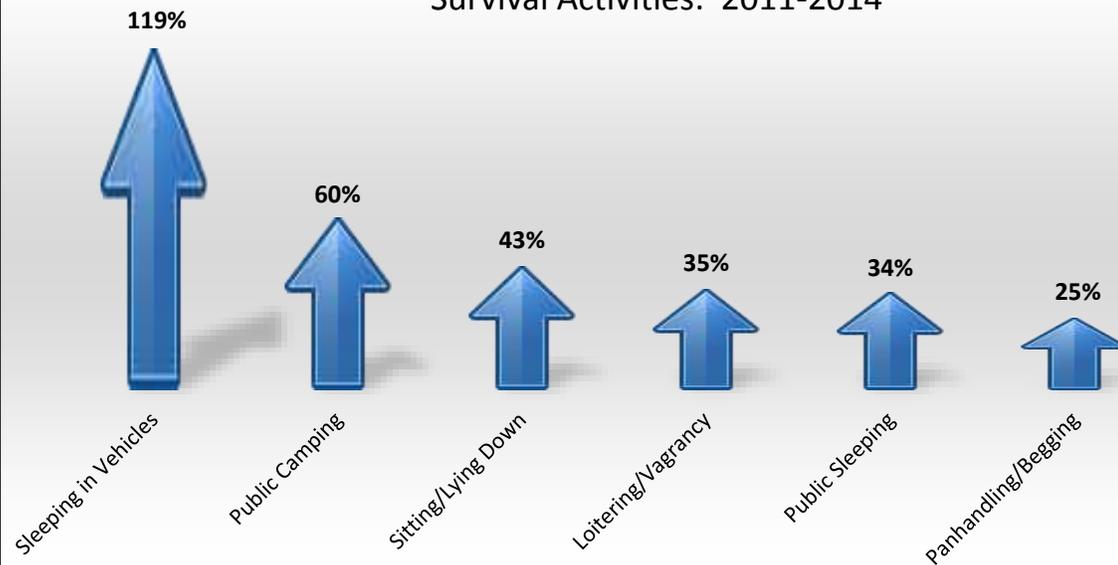


Chart 4. Increasing Number of Municipalities Passing Anti-Homeless Laws

Do cities actually enforce these laws? Yes. A national survey by the Western Regional Advocacy Project found vigorous policing of such ordinances across the nation, with the result that 74% of homeless people replied that they did not know of any place where it was safe and legal for them to sleep. Homeless respondents also reported frequent police harassment, as seen in Figure 2 below.

Figure 2: Police Harassment of Homeless Nationwide
 Source: National Law Center on Homelessness and Poverty²⁷



Colorado’s Criminalization of Homelessness: A Sampler

In one of Colorado’s most contentious recent episodes of criminalizing homeless survival activities, the City of Denver passed a law prohibiting homeless people from sheltering themselves from the elements with anything more than basic clothing. The “camping ban” prohibits individuals dwelling in public from utilizing any type of makeshift “shelter” from the elements. A wide range of “shelter” now prohibited to homeless people: “If it’s a blanket or cardboard or newspapers, that’s ‘shelter.’ Clothing is not,” said a member of the Denver Police Department’s Homeless Outreach program. Homeless individuals have reported police warnings under the law for things as simple as sitting on a towel, to avoid sitting in the dirt.

The Denver camping ban is just one of many Colorado laws restricting homeless activities in public places, and prohibiting a wide range of survival activities by people living without homes across the state. A sample of those laws (and an example of a police officer enforcing Denver’s sleep/sit ordinance) is provided on the next pages,²⁸ and in Appendix A.



Denver's "Sleep-Sit" Ordinance prohibits anyone from sitting or lying down on sidewalks or streets in the downtown area. Denver also enforces 16th Street Mall "area restrictions" against dozens of people, whereby a judge bans a repeat offender from this downtown area altogether. Though the city does not report how many people have been banned, individuals include repeat violators of the sleep/sit ordinance and mentally ill homeless street wanderers. "There is really something wrong about making it a crime for someone to appear on a public sidewalk in a public place," said ACLU legal director Mark Silverstein.



Grand Junction police commonly enforce laws against trespass and camping without a permit by summarily destroying the tents and belongings of homeless people. In one recent case, police officers used knives to cut up the tents of homeless residents and slashed their bicycle tires. Officers explained that these actions were "consistent with their law enforcement training." Grand Junction officials have also worked to "reclaim" downtown parks from the homeless by systematically locking up public bathrooms and shutting off water fountains to limit access to clean water.



In Boulder, it is illegal for the homeless to "camp" anywhere on public space by using "shelter" from the elements. The term "shelter" includes any cover or protection from the elements other than clothing. Although homeless individuals have froze to death on Boulder streets in recent years, using anything other than clothing for warmth is illegal. In one unique case, a homeless man was cited under the city code for sleeping under a tree. The policeman considered such proximity to vegetation to be "protection from the elements other than clothing."



Durango maintains an anti-loitering ordinance, which states: "it shall be unlawful for any person to loiter for the purpose of begging." The ordinance prohibits passive and peaceful requests for assistance and applies everywhere in the city. Under this ordinance, the city has cited a peaceful panhandler standing on a downtown sidewalk with a sign requesting money, and a street busker, who simply played his guitar while his guitar case lay open at his feet for contribution of coins. In 2014, after being pressured by the ACLU, Durango's Mayor chose to quit enforcing this law.

In Denver, It's Now Illegal to Sit

"Because there would be everybody sitting around everywhere"



What is it like for homeless residents to experience the kind of police harassment they report in our survey? Above, is a screen shoot of a video encounter between a homeless young man and a Denver police officer. The video was shot by the filmmakers of "Scrapped," a video about the challenges of homelessness in America. In this video,²⁹ the police officer is enforcing Denver's ordinance against sitting in downtown. The officer explains that people just don't want to see homeless people sitting on the streets, while they are shopping at the 16th Street Mall. See transcript below.

POLICE OFFICER: You remember last week? We talked about you sitting down? You said you'd never been warned? You can't sit in the alleys, you can't sit the streets, and you can't sit on the sidewalks in Denver.

MAN: What's the point of that law?

OFFICER: Because there would be... Um... Vagrancy... Everybody sitting around everywhere. Homeless people come into downtown for businesses... Shopping... They don't want to see that.

MAN: So, because people who have homes don't want to see people who don't have homes?

OFFICER: It has nothing to do with homelessness.

MAN: No, you just said...

OFFICER: That could be. That's part of the law. That could be. Then take 'em to your house. Let 'em sit in front of your house and see how you like it. Okay, what's your address, I'll send all the homeless to your house and tell them to sit in front of your house? I keep telling you- go get help. You don't want to get help.

*MAN: I just spent the past 3 hours trying to get f***ing help and nobody seemed to want to help me there either. So, I don't know... Man... Go harass someone else.*

PART II

THE HOMELESS RIGHTS SURVEY: METHODOLOGY & FINDINGS



Survey Background and Methodology



In recent years, many Colorado cities have expanded their network of laws that restrict acts of survival in public places. Durango has recently attempted to ban passive, peaceful panhandling in all of the city. Boulder has issued thousands of tickets for people sleeping outside in sleeping bags. In 2012, Denver gained national attention for passing its harsh “camping ban,” a law that makes it illegal for anyone living in public to use any kind of shelter from the elements other than their clothing. Under this law, it is illegal for homeless people to sit on a piece of cardboard, to use a thin blanket around their shoulders, or to sit under a tarp in the rain.

We know that these kinds of laws are expanding across Colorado and the nation. But we know very little about how often homeless people in Colorado are ticketed, arrested or otherwise harassed under these laws. Furthermore, there is evidence that these laws are part of a broader pattern of discrimination and harassment against homeless people that goes far beyond ticketing and arrests for violations of specific crimes of homelessness. Scholars, journalists, advocates and homeless people themselves have reported a persistent extra-judicial harassment by local authorities, such as police confiscation and destruction of personal belongings without due process, “enforcement” of non-existent laws, and denial of bathroom access to homeless people. Private security guards, shelter staff, employers and landlords have all been argued to discriminate against homeless people and treat them harshly.



Photo: University of Denver

However, we have little hard evidence of the extent of this harassment and denial of human rights—whether by police in an official capacity, or in an extra-judicial capacity by police or others. This DHOL survey was designed to address this deficit of knowledge. The DHOL survey seeks to bring to light the actual experiences of homeless people in navigating survival in public places. What percent of homeless people have experienced citations, arrest or other harassment by police for acts

of survival in public places? How many homeless people have had their belongings confiscated and destroyed by police without due process? How often do homeless people feel they are treated roughly or discriminated against due to their condition? How often are basic human rights, such as bathrooms, clean water, or even custody of one’s own children, denied to people living without a home?

Selected “Cluster Sampling” Cities and Sites for the Survey

Cities

Boulder
Colorado Springs
Delta
Denver
Engelwood
Fort Collins
Grand Junction
Lakewood
Montrose

In These Cities, Surveyors Targeted the Following Kinds of Sites:

Free Meals Sites
Parks, Streets, Sidewalks &
Parking Lots
Public Libraries, Shelters &
Day Centers
Resource Centers, Food
Banks, & Day Labor
Employers

To explore these questions, in 2014 Denver Homeless Out Loud and partner organizations designed and conducted a survey to collect the experiences of Colorado’s homeless community. A 23 question survey was designed through a series of community meetings. Training sessions were held with surveyors to discuss survey administration, so as to best insure the survey would be administered in a professional, respectful and unbiased way.

Surveyors were instructed not to share their personal analysis of any of the survey questions while they were doing surveys. Prospective respondents were simply to be informed that the survey related to people’s experiences surviving in public places and in interacting with the police, and were then asked to fill out the survey. All survey respondents were instructed not fill the survey out again if they had already filled it out before.³⁰

Throughout the summer and fall of 2014, trained surveyors fanned out to ten different cities across the state to recruit respondents. Survey sampling methodology was a mixture of cluster and convenience sampling. Cluster respondents were selected from strategically chosen sites (such as core downtown areas, shelters, service-providers and other public spaces frequented by the homeless), so as to insure maximum representativeness of the homeless population which lives in public spaces. At each of the cluster sample sites, surveyors collected responses from a convenience sampling of all respondents who were present at the time and willing to take the survey. Some of the key cluster sampling sites are provided to the left, though other sites were also utilized.

In the end, 441 different people with recent experiences of homelessness were surveyed. Once surveys were completed by DHOL, the de-identified survey data were delivered to Dr. Tony Robinson, Associate Professor of Political Science at the University of Colorado Denver, who quality-checked data-input, completed the data analysis and worked with the community coalition and graduate student Allison Sickels to complete this final report.

Survey Demographics

The survey was administered to 441 homeless respondents, who were diverse and representative of the Colorado homeless population. As seen in the following tables, the demographic breakdown of these diverse respondents roughly matches the survey results from the Metro Denver Homeless Initiative's (MDHI) 2014 homeless count. The diversity of DHOL survey respondents, and their general match to the widely utilized MDHI numbers, suggests that the DHOL survey reached a broad and representative sample Colorado's homeless population.

Table 3. Race/Ethnicity of DHOL Survey Respondents vs. MDHI Respondents

Race/Ethnicity	DHOL Survey	MDHI 2014 Point in Time
White	45.9%	46.8%
Latino/a	13.6%	19.9%
Black	15.1%	22.6%
Native American	7.4%	3.3%
Mixed/Other	13.4%	5.9%
Asian	4.5%	1.5%

Table 4. Demographics of DHOL Survey Respondents vs. MDHI Respondents

Survey Demographics	DHOL Survey	MDHI 2012 Point in Time
Male	65%	60%
Female	32%	40%
Age Below 18	.5%	1.0%
Age 18-24	20%	13.3%
Age 25-49	49%	67% (Aged 25-54)
Age Over 50	31%	19% (Over age 54)
Disability	59%	57%
LGBT***	15%	Unknown
Had a Job Recently	51% (in last 6 mos)	30% (in last month)

Survey Limitations and Possibilities

There are limitations to this survey as a scientific instrument. For example, the convenience sample methodology means that the sampled population is not perfectly representative of the region's homeless population. But as discussed earlier in this methodology section, this kind of convenience sampling is common in social science survey research, especially among people experiencing homelessness, a very difficult population to enroll in a perfectly random survey. In any case, the broad mix of survey sites, the large size of the survey sample (441 respondents), and the general match of demographics with the Denver area Point-In-Time survey, suggest that this survey connected with a representative range of homeless people in the region.

This survey asked people about their record of citations and arrests, and about their experiences with police harassment and other forms of harassment. There may also be a concern that people who are homeless might inaccurately remember their experiences with police, or might have a personal definition of what it means to be "harassed" that does not match the legal definition.

The problem of inaccurate memories of course is endemic to all survey research and cannot be avoided. As for the wording of several questions focused on "harassment," it is certainly true that respondents' understanding of harassment may not match the legal definition of "harassment." Nevertheless, it remains critically important to document the personal experiences of those who know these realities first hand. This survey tells us what homeless people themselves have to say about life on the streets. Taking their experiences and personal interactions seriously is essential because they shed light on how people without homes experience their interactions with police and others.

Too often, people in positions of power speak for and about people living without homes—offering platitudes about how harsh laws against sitting down or prohibiting the use of a blanket on a cold night are actually good for homeless people. For example, Denver City Councilman Chris Nevitt defended the Denver Camping ban by claiming that too many homeless people need the help of detox to stay sober, or need the help of social service agencies, but yet they often refuse to accept that help. Persistent police contact is needed to force these people to move off the streets, Nevitt argued. "Those are the people right now where we really don't have the tools available to push them into the arms of help," Nevitt claimed. "So there is a little bit of stick here, but sometimes a little bit of stick is necessary to get people to accept the carrot."³¹

In the face of comments like this, it is time we hear from homeless individuals themselves.

Just what is it like to face that stick?

Homeless Experiences with Police



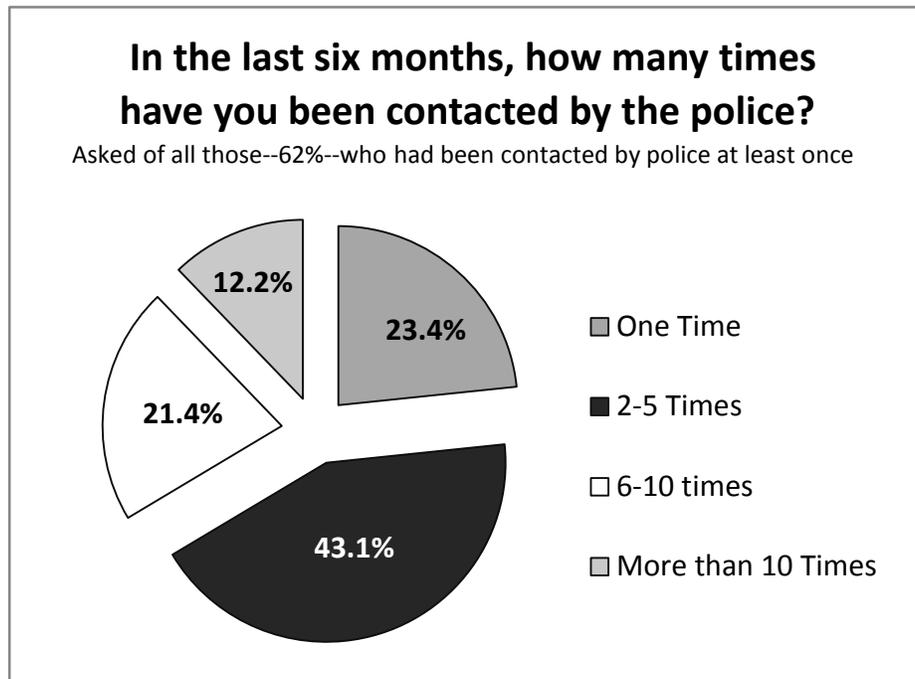
Denver is a national leader in aggressive policing of people without homes. Denver received national attention as one of the harshest cities in the country, following the 2012 passage of a ban on “unauthorized camping” –making it illegal for homeless people to sleep, sit for extended periods, or store their belongings anywhere outdoors in Denver, if they use any form of protection other than their clothing (e.g., a blanket, a newspaper sheet, or a piece of cardboard to sit upon). Denver’s camping ban even attracted the attention of the national U.S. Interagency Council on Homelessness, which concluded that bans on public camping are cruel and counterproductive, and urged cities like Denver to rethink their policies.

But the Denver Camping ban is just one of many anti-homeless laws on the books across Colorado. Other laws include wide-ranging restrictions the time, place and manner of panhandling, laws forbidding sleeping and sitting on sidewalks, and park curfew rules. Colorado cities are also at the leading edge of cities that are pioneering the use of “area restrictions” to ban certain people from visiting or moving through certain areas of the city—such as the downtown area of Colorado Springs or the high-profile 16th Street Mall area of Denver. Bans are due to repeat crimes like shoplifting and assault, but also due to crimes such as violating park curfews, trespass, panhandling, and sleeping in public—which are violations commonly committed by homeless people living in public areas. To more fully patrol downtown areas for such offenses, Denver city leaders have recently dedicated about \$2 million for new downtown law enforcement patrols, including hiring 10 new officers for the downtown area.³²

Colorado officials are committed to actively enforcing the growing matrix of anti-homeless laws. Boulder issues hundreds of tickets for camping ban violations. Raids and closures of homeless encampments are common in Fort Collins and Grand Junction. The day after Denver’s “camping ban” passed, the *Denver Post* reported that “it will give police the tools to move out homeless people, who over the past few years have irritated downtown merchants and tourists.”³³ Before the ban, Mayor Hancock noted that “we didn’t have the authority to move them along,”³⁴ but he predicted that things would change after the camping ban.

As a result of this growing matrix of anti-homeless laws, a previous survey of 512 homeless respondents by Denver Homeless Out Loud revealed that contact with police is a way of life for homeless residents. In that survey, 62% of respondents stated they had been approached by police at least once in the preceding six months, and most of those people were contacted several times.³⁵

Chart 5. Frequency of Police Contact with Homeless People

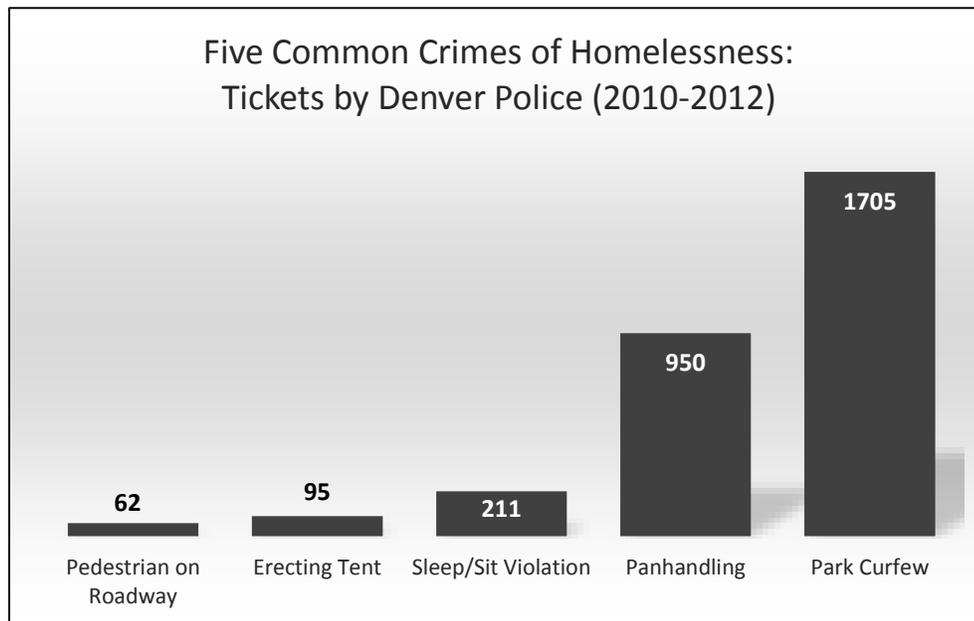


This survey data aligns with other evidence that homeless residents are frequently contacted, ticketed and even arrested by Denver police for crimes of homelessness, such as violating the “Sleep-Sit” ordinance (which makes it a crime for people to sleep or sit in public in non-designated areas). Reporting on targeted policing of many “quality of life” crimes in the downtown area, a recent report by *The Denver Post* revealed 1,603 arrests on the 16th Street Mall in 2014--about five arrests every day. Many of those arrests were for serious crimes like burglary or assault, but hundreds were for panhandling, curfew violations, and trespass (such as sleeping in a business owner’s alcove).³⁶

City-wide, data from the Denver County Court’s Information Technology Department show that 11,274 tickets were issued to people with “homeless” or “transient” listed as their address between 2010 and 2012—a ticketing rate that is double the rate for non-homeless Denver residents. More than 25% of those tickets were for one of three common crimes of homelessness (panhandling, curfew, or sleeping/sitting in public), and many others were for crimes such as being on the roadway median, erecting a tent, or trespassing on business property).³⁷ Chart 2 provides ticketing data on five common crimes of homelessness, from 2010-2013.

DHOL Homeless Survey Results

- 36% of Respondents ARRESTED for Crime of Homelessness**
- 70% of Respondents TICKETED for Crime of Homelessness**
- 90% of Respondents Report Police HARASSMENT**

Chart 6. Five Common Crimes of Homelessness: Tickets by Denver Police (2010-12)

There is, of course, a robust debate on the reason and need for such anti-homeless laws. Proponents of the laws commonly argue that such laws are necessary to enforce standards of civility in public areas, and to reduce crime by nipping disorder in the bud through what is known as “broken windows policing,” which targets small violations like panhandling to avoid having an area slip into broader disrepair and attracting more crime. Proponents also argue that such laws are productive, since they force homeless people off the streets and into supportive shelters and services, which could help them improve their personal situation.

Critics of such laws argue that they are driven by unjustified fear and discrimination against people without homes, by a callous and immature desire to hide the impoverished from public sight, and by selfish concerns with maintaining a well-polished business climate so as to maximize tourist visits, shopping, and business profits. Critics also point out that such laws are especially cruel because they make survival activities illegal (such as sleeping or sheltering in public), even while officials admit that there are not enough affordable housing units or shelter beds for all homeless people to ever get off the street on any given night. Many organizations with a history of working with the homeless report that police not only aggressively enforce anti-homeless laws, but also have a pattern of harassing and “moving along” people without homes—even without reference to a specific law.

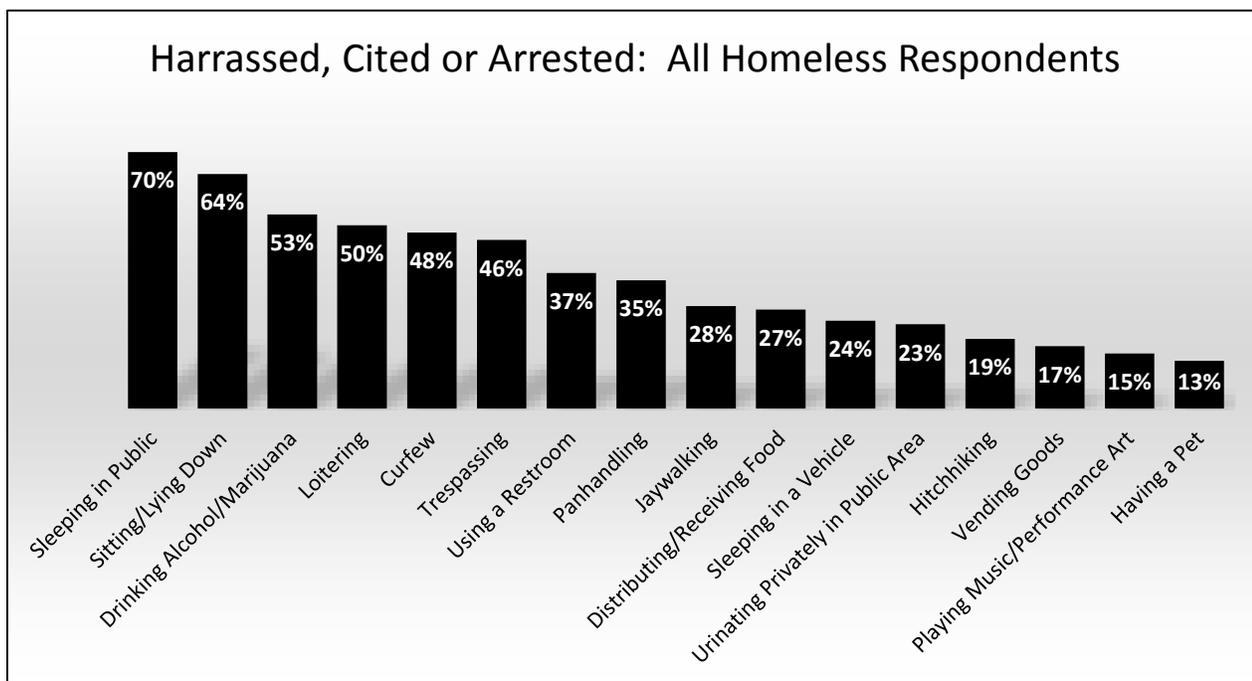
This particular critique raises the question of whether the civil and human rights of homeless people are protected in our society. One does not lose a right to move through public space simply because one is poor—as it is an undeniable need for every person (even those without homes) to sit and rest at times, to sleep each day, to shelter oneself from the elements, and to have access to water and bathrooms. If a matrix of laws, policies and practices in Colorado makes it difficult for people without a home to carry out such activities, then the result is

essentially the criminalization of the very existence of a human being, violating their human rights to exist in public space, and putting them in a position of constant conflict with local police.

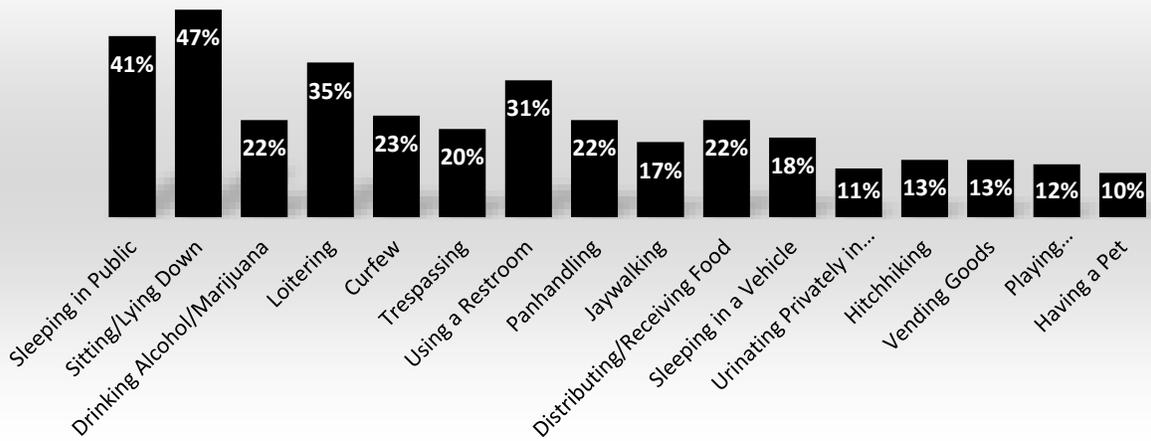
But are such violations of human and civil rights occurring? To help answer that question, gathering the voices and perspectives of homeless people themselves is necessary. What do Colorado’s homeless residents have to say about how often the police contact them regarding possible violations of Colorado’s wide-ranging anti-homeless laws? What are the consequences of aggressive policing of homelessness for people who are living on Colorado’s streets? Do homeless people themselves report frequent incidents of harassment from local police, or do they feel generally treated with dignity and respect?

The DHOL survey provides some troubling answers to these questions. When 441 Colorado homeless individuals were surveyed about their own experiences with police, they reported a persistent feeling of harassment. Of all homeless respondents, 90% report they have been “harassed” by the police in various ways. 36% report being cited/ticketed for crimes of homelessness (panhandling, curfew violation, trespass, sleeping/sitting in public), and 34% report an arrest for such “crimes.” Charts 7-10 show the self-reported experience of Colorado residents of harassment, ticketing and arrest for a variety of crimes associated with homelessness.

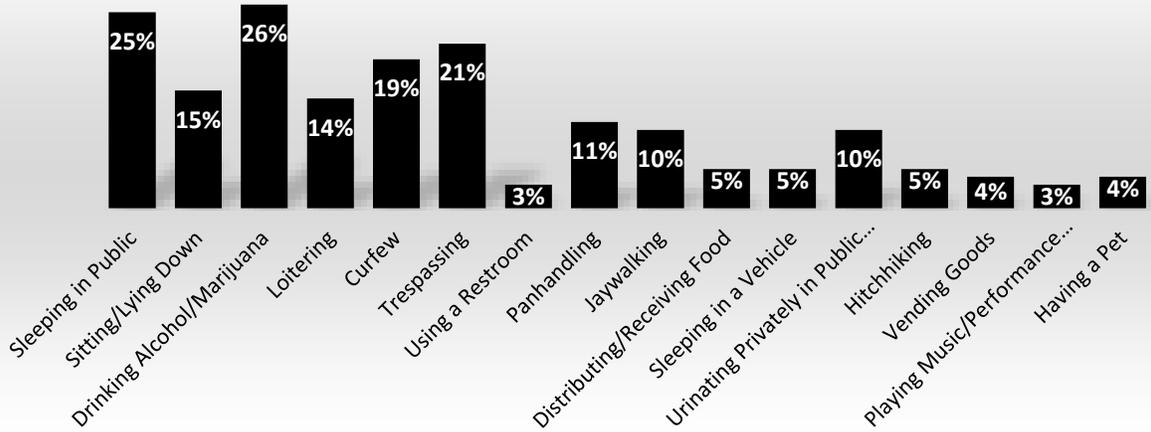
Charts 7-10. Percent of Homeless Respondents Harassed, Cited or Arrested



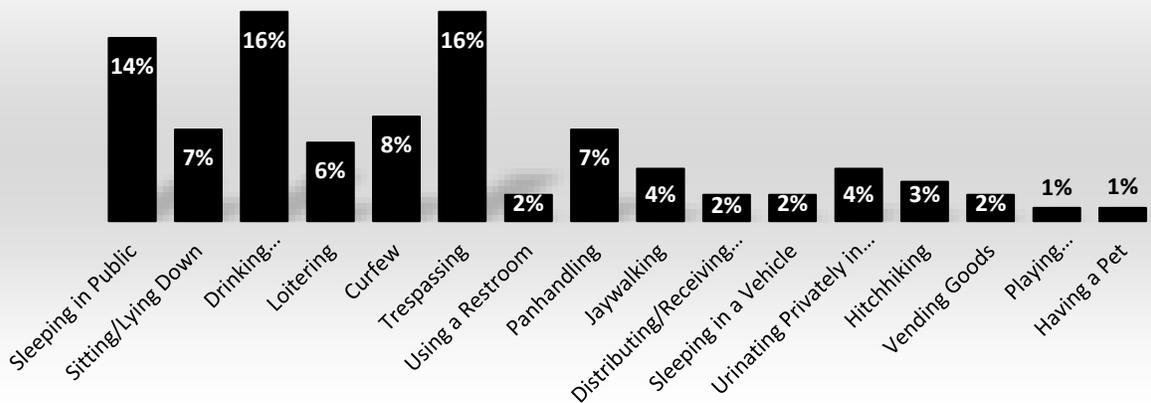
Experienced Harassment (w/o Ticket or Arrest)



Cited/Ticketed

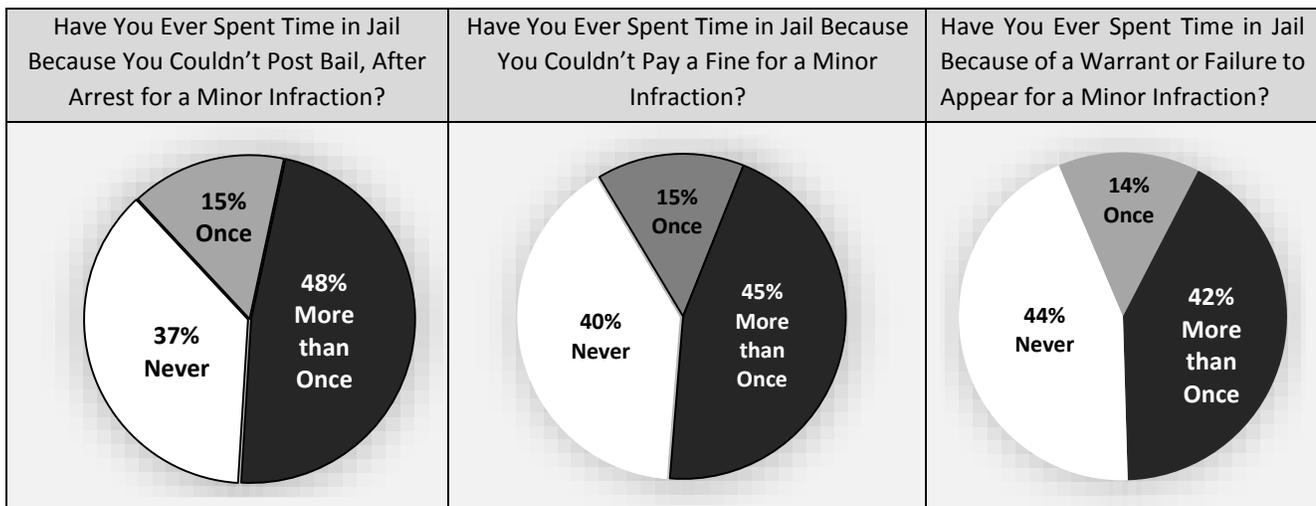


Arrested



The data in these charts are troubling. Ninety percent of homeless people report they have been harassed by police, for reasons related to their homelessness. About 15% of homeless people report being cited or arrested for the simple act of sleeping in public. About 10% have been cited or arrested for sitting or lying down in public. Official police data show hundreds of tickets each year for panhandling, curfew violation, and violations of sleep/sit ordinances: a homeless ticketing rate that is twice that of the non-homeless. As the charts below show, many of these tickets or arrests have resulted in extended jail time, due to failure to appear in court, or inability to post bail or pay fines. These patterns raise concerns that the basic civil and human rights of Colorado’s homeless residents are being violated.

Chart 11. Homeless Jail Time for Minor Infractions



Colorado’s array of anti-homeless laws present homeless residents with an impossible situation. Police warn the homeless that they can't take shelter or sleep in public, but there are inadequate indoor shelter alternatives. In every major Colorado city, there are far more homeless people than there are emergency shelter beds. Furthermore, there are hardly any shelter units at all available for certain homeless populations, such as couples without children, the disabled, or the mentally ill. The cruel response of cities to the gap between homeless individuals and inadequate low-income housing and shelter units has been to illegalize and arrest those who cannot find indoor shelter.

Every night, in other words, local officials admit hundreds of people must shelter and sleet outside, and yet these officials encode laws that made such survival acts illegal, and mobilize persistent police pressure to enforce those laws.

For example, By Denver’s own count, Denver homelessness has increased five-fold in the last 15 years (to about 5,000 residents), while shelter beds have remained constant (about 1,800

beds).³⁸ Responding to the shelter-need gap with increased policing of homeless people, Denver reported more than 3,000 tickets for violations of five homeless crimes from 2012-2014,³⁹ and more than 1000 police contacts with homeless people who were warned they were in violation of the Denver ban against using shelter against the elements.⁴⁰

In Fort Collins, the 2015 Point in Time survey counted 301 homeless people - while 438 were counted in a summer count in 2014. However, in Fort Collins there are only 118 regular emergency shelter beds, plus forty in the winter as over flow. So in the summer, 328 homeless people have no shelter beds available, and must survive by sleeping in public. Regardless of this necessity, In August of 2014, Fort Collins police targeted 54 illegal campsites of homeless people and issued 32 citations during a homeless enforcement sweep.⁴¹

In Boulder, the 2014 Point in Time for Boulder counted 850 homeless people. But Boulder only has 160 shelter beds for the homeless, which are only open between the months of October and April. Churches provide 127 overflow beds on cold winter nights as well. Counting all these shelter units leaves roughly 550 people without indoor shelter options in Boulder during the winter. There are no shelter beds at all in summer months. Nevertheless, in one year alone (2013), Boulder issued 584 tickets to homeless people for Camping, Loitering, and Trespass (which includes violating public park curfew).⁴²

In Colorado Springs, 2014 Point in Time survey counted 1,219 homeless people, including 269 people living entirely unsheltered, as the community only offers 20 emergency beds. Regardless of the lack of indoor shelter options, city officers regularly cite people for violating curfew by sleeping in a park. In October of 2012, police cited one individual for sleeping under the covered pavilion at Antlers Park to get out of the rain, according to an affidavit included with his ticket. The individual was confronted by four officers at the park, about 3 minutes after it closed for the night at 11 p.m.

It is for just these reasons that the United Nations, the ACLU, the National Coalition on Homelessness and the National Inter-Agency Council on Homelessness have all concluded that laws that target homeless survival activities (such as laws against sleeping, sitting, or sheltering in public) are cruel and counterproductive violations of human rights, and have urged states to Colorado to eliminate such laws.

Public Costs of Criminalizing the Homeless

Treating homeless people as criminals for acts of survival costs taxpayers millions of dollars,⁴³ without any evidence that this approach actually improves the homeless situation in Colorado. The National Alliance to End Homelessness notes that “people who are homeless spend more time in jail or prison, which is tremendously costly to the state and locality. Often, time served is a result of laws specifically targeting the homeless population, including regulations against loitering, sleeping in cars, and begging.”⁴⁴

A Nashville study found that costs to incarcerate homeless people added up to \$823,494 in 2007 alone, with an associated \$813,691 in court costs.

In Boulder, Colorado, estimates are that it costs the public \$1,100 every time a homeless camping ticket is issued.

In Denver, over 3000 tickets for five common crimes of homelessness were issued between 2010 and 2012 (panhandling, sitting/sleeping in public, violating curfew, erecting “tents,” and pedestrian in the roadway violations). The estimated incarceration cost associated with that subset of ticketed homeless who end up in jail is \$165,000—just for those five crimes alone. This estimate does not include court costs or costs of police personnel hours to enforce such laws.

In Larimer County, there were over 3,000 transient and homeless bookings in the last four years, and 96,475 “inmate days” for this population. These arrests have entailed over \$8 million in public costs.

According to a University of Texas study of homelessness, “each person costs the taxpayers \$14,480 per year, primarily for overnight jail.”

THE ORLANDO SENTINEL REPORTS ON COSTS OF JAILING THE HOMELESS (May 21, 2014)

“Living on the streets isn't cheap: Each chronically homeless person in Central Florida costs the community roughly \$31,000 a year... The price tag covers the salaries of law-enforcement officers to arrest and transport homeless individuals — largely for nonviolent offenses such as trespassing, public intoxication or sleeping in parks — as well as the cost of jail stays, emergency-room visits and hospitalization for medical and psychiatric issues. In contrast, providing the chronically homeless with permanent housing and case managers to supervise them would run about \$10,000 per person per year, saving taxpayers millions of dollars during the next decade.... The findings are part of an independent economic-impact analysis.”

“The numbers are stunning,” said the [Florida] homeless commission's CEO, Andrae Bailey. “Our community will spend nearly half a billion dollars [on the chronically homeless], and at the end of the decade, these people will still be homeless. It doesn't make moral sense, and now we know it doesn't make financial sense.”

Is A T-Shirt Illegal Shelter?

Creative Criminalization in Boulder



The picture to the left shows two men who were charged with violation of the Boulder “camping ban.” Like Denver’s ban, the Boulder camping ban prohibits “dwelling” in a public space by conducting activities of daily life (like eating or sleeping) while using “shelter” from the elements. The ordinance defines shelter to include “*without limitation, any cover or protection from the elements other than clothing.*” The two men were

charged with violating the camping ban, because they were sleeping in a public place, with shelter. The man with the sleeping bag (top) was found guilty of violating the ban, as a sleeping bag is considered shelter. The man who had only covered himself with a t-shirt around his lower legs was found not guilty, as the court found that articles of clothing do not count as shelter.

The absurdity and meanness of a law that requires people without homes to cover themselves only with t-shirts and not with sleeping bags while in the cold is apparent from this picture. But this case involves several other instructive elements that teach just how far officials are willing to go to violate the human rights of those without homes. Consider the following facts, which are all in the court record.

- The person covering himself with only a t-shirt told police that the reason he did so was because he knew that any other form of “shelter” beyond his clothes would get him ticketed or arrested for violating the camping ban. Nevertheless, he was ticketed.
- The city prosecution argued that placing a t-shirt over one’s legs constitutes illegal shelter. The prosecution went further and argued that the defendant used a second form of shelter as well: the backpack pillow he was resting his head was shelter, the city argued, since it “protected defendant’s head from lying directly on the ground.
- Ultimately, the court found that neither the t-shirt nor the backpack pillow constituted “shelter.” Regarding the backpack, the court explained that world cultures through history use pillows for aiding rest, without considering them “shelter” from the elements, as well as the evidence of people in the parks every day who lay their heads upon backpacks for comfort, without considering them shelter.

This Boulder case is instructive. It shows just how challenging it is to survive within the law as a homeless person, in that covering oneself with a shirt is allowed during a cold night—but not a sleeping bag. It also shows how creative city officials will be in driving homeless people out of public spaces. When officials spend the time and money to argue in court that homeless people should not be allowed to place thin shirts on their legs nor use a backpack to keep their head off the ground, then the case for a stronger defense of the rights of homeless people is clear.

Boulder Camping Ban in Context

In 2013, Boulder issued 584 tickets to homeless people for Camping, Loitering, and Trespass (which includes park curfew on public property). An increasing number of people are receiving tickets for the camping ban, but some are choosing to go to jury trial, claiming a necessity to cover themselves from the cold, or to sleep in a park, since there are not enough affordable housing alternatives in Boulder. In 2007 there were 4 jury trials for illegal camping in Boulder but by 2011, there were 49 jury trials for illegal camping. Many of those who go to trial are found “not guilty” as juries conclude that the “necessity” of using some sort of protection from the elements trumps the violation of the camping ban. Boulder camping ban defense lawyers state that 78% of the camping ban cases they defended have resulted in a “not guilty” verdict.

In response to this increase in “campers” being found not guilty in jury trials, in February 2012, Boulder City Council passed Ordinance No. 7831, which was intended to remove jury trials as an option for first or second offenses of illegal camping, along with other laws. However, after passage, this ordinance was successfully challenged by the ACLU, thereby ensuring people’s right to trial by jury.

Though national studies show that homeless people are far less likely to commit violent crimes than people living in homes (and far more likely to be the victim of violent crime themselves), too many local officials maintain a deep fear and disdain of the sight of homeless people—a fear that drives them to sacrifice the constitutional and human rights of the most vulnerable in their community. Consider an article published on July 1st, 2014 in the *Boulder Daily Camera*, titled “*Boulder councilman, merchants warn of downtown area 'taken over' by homeless.*”⁴⁵ The article reported the following details about a handful of people without homes hanging out in a public park

"It's a unique place to hang out," [councilman] Cowles said. "There's Boulder Creek rushing by. This is a wonderful place and it's a place, actually, that the city's invested a fair amount of money in. But, for the most part, people on the Hill aren't using that really neat path to get downtown because of their fear for their safety and what goes on there."

What was making people too frightened to use this area? The article goes on to report. “At midday Monday, about a dozen people — some with sleeping bags and large backpacks— were sitting under trees in a grassy area off the southeast corner of Arapahoe and Broadway.”

Apparently, Boulder city council members, businesses, and others deem people with backpacks and sleeping bags “frightening.” In response to concerns like this, Boulder Police began regular visits to this location and after a while those resting here in the park moved along... Only after one officer took one of their bikes⁴⁶

The confiscation of the bike matches data in our DHOL survey: 61% of survey respondents said police have taken their belonging, and only 19% of those people report ever receiving their belongings back.

“Moving Along” After the Ban

“We Can’t Go Anywhere Now. Not in the Alley. Not Anywhere”

In 2012, in the months after Denver passed a new “camping ban,” which prohibited homeless people from sheltering in public places, Denver Homeless Out Loud interviewed numerous homeless residents about the effect of that ban on their living situation. Here is what one homeless couple shared. Their real names are not used.



Photo: Mr. Graves

INTERVIEWER: How has Denver’s camping ban affected you?

TOM: We got two tickets for sleeping in the alley back here. We got two tickets for trespassing, and we had nowhere else to go.

INTERVIEWER: When the police officer approached you, what did he say?

SANDY: “You guys have been warned not to be back here. You guys are getting tickets.”

INTERVIEWER: Had he warned you before?

SANDY: Oh yeah, he’d caught us back there before. It’s the safest place.

INTERVIEWER: And then what?

TOM: He tells us to “move along.” Just get your gear and go!

INTERVIEWER: Do they suggest a place to go?

TOM: No.

SANDY: They say, “There’s a thousand other places to sleep, just not here. Go.”

INTERVIEWER: So where do they expect you to go?

SANDY: That’s what I ask him, “Where do you want us to go?” He says, “Anywhere but there.”

INTERVIEWER: Do they ever direct you to a shelter?

SANDY & TOM: No.

INTERVIEWER: Do they ever ask you if you want to go to a shelter?

TOM: No.

INTERVIEWER: So they don't offer you ANY services or assistance?

TOM: No, just "go."

INTERVIEWER: Do you mind describing the events prior to the officer approaching you?

TOM: There's just a couple of us back there, not doing anything, just trying to sleep. We have all our stuff nice and neat. And then the police officer just comes up and tells us we have to go. "Here's your trespassing tickets; just go."

INTERVIEWER: Did anyone call and complain about you guys?

SANDY: No. I mean we're back there all the time. And we're clean and quiet. None of us are drinking. TOM: Yeah, we kept a pretty clean spot, didn't bother anybody.

INTERVIEWER: So is the place you sleep now more safe or more dangerous?

TOM: We found an O.K. spot- a little piece of sidewalk, on the heating grates. It's kind of dangerous. I mean we burn ourselves, on the fingers, toes and arms, but it's our only spot. It's hot, but it's what we got. We can't stay on the Mall, and we have to stay dry.

It's definitely more dangerous. There's people and things; these fools run around smoking their stuff and shooting their stuff. We don't do none of that. We're just trying to sleep and the police come hassle us like we were criminals.

Now it's a more precarious situation. We can't go anywhere now. Not in the alley, not anywhere.

INTERVIEWER: Have the police ever helped you in any way? Helped you to a shelter or something like that?

SANDY: No. Never. Unless you call writing me tickets some kind of help, no.

EXTRA-JUDICIAL HARASSMENT

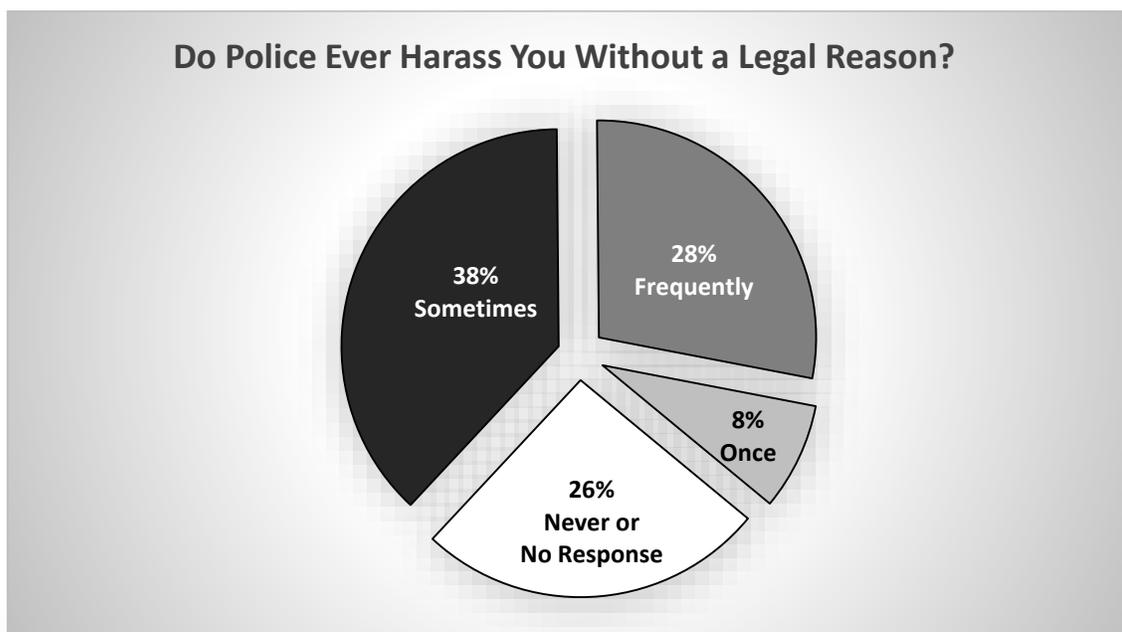


Colorado’s homeless residents face difficult challenges in dealing with the network of laws that target a wide range of activities common to homeless people—including survival activities such as sleeping or sitting. Such laws arguably violate the human rights of Denver’s homeless residents, and are widely regarded as cruel and counterproductive by most scholars, social workers and advocacy organizations working on issues of homelessness. But even beyond these clearly encoded laws, homeless residents face additional difficulties in navigating the range of extra-judicial harassment they commonly experience at the hands of local police and private citizens alike.

Extra-judicial harassment is some form of “punishment” that is carried out without proper legal process or authority. A homeless person treated roughly by a police officer, for the purposes of “moving them along” is experiencing extra-judicial harassment. When personal belongings are taken from homeless people by police or private security guards and not returned to them, they are experiencing extra-judicial punishment. Homeless residents that are treated roughly or “moved along” by private security guards who do not have the authority to do so are experiencing extra-judicial harassment.

How often do Denver’s homeless residents face extra-judicial harassment by local police or other authority figures in Denver? The DHOL survey asked homeless respondents their own feelings on this question and found that nearly 75% of respondents feel they have been subject to extra-judicial harassment by police.

Chart 12. Percent of Homeless Respondents Harassed Without Legal Reason



Extra-Judicial Punishment: Confiscation and Destruction of Personal Property

A very specific form of extra-judicial punishment often experienced by homeless people is the confiscation and destruction of their belongings, without due process of law. Homeless residents in Denver complain frequently that their belongings are often left behind on the street if they are arrested, and subsequently these belongings disappear. There are many allegations of police confiscating belongings when a person is arrested, and yet those belongings are never returned when the homeless arrestee is released.

Though court cases have been brought against many cities for their policy of destroying the belongings of homeless people without due process, the practice continues to be widespread.⁴⁷ Just two years ago, Colorado Springs was threatened with lawsuit for its policy of sponsoring police “cleanups” of homeless encampments, which included mass confiscation and summary disposal of such things as prescription drugs, military medals, family photos and official identification documents. Similarly, Denver has a record of conducting sweeps of homeless encampments along places like the South Platte, and of disposing of the belongings they confiscate in those sweeps. Reporting on a 2014 sweep, the *Denver Post*, wrote that “Homeless people camping along the South Platte River and Cherry Creek who left their possessions at the sites were likely to find them gone Thursday after the city mounted a major cleanup...It is not uncommon during sweeps of the homeless for people to lose possessions, including medication, identification and other necessities when the area is cleared.”⁴⁸

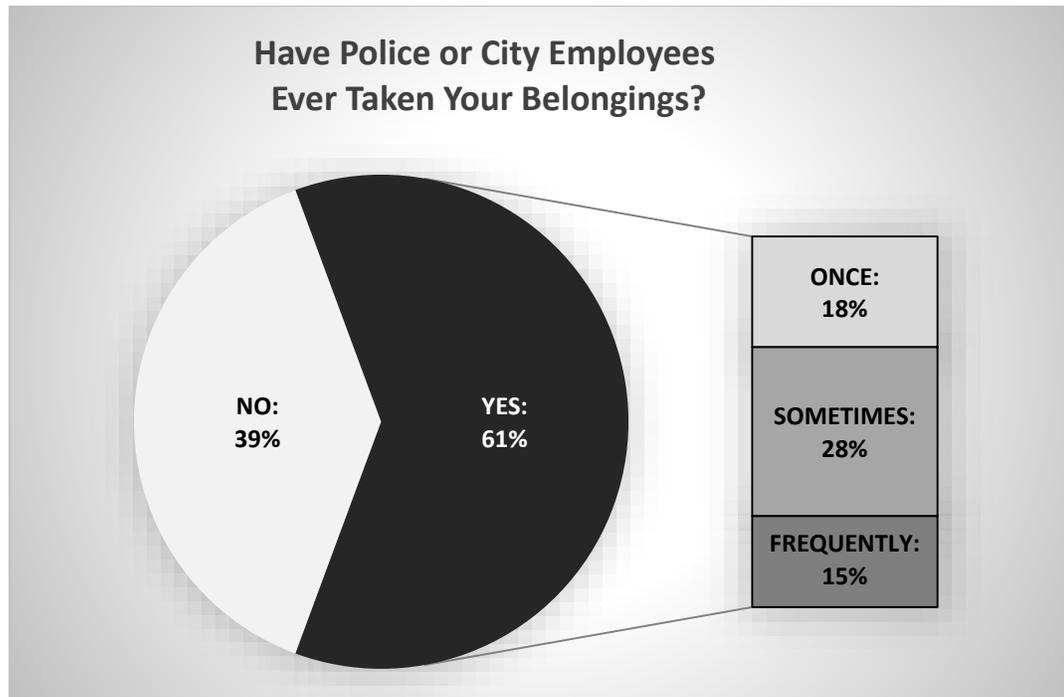
CINCINNATI: *CASH V. HAMILTON COUNTY* (FEDERAL APPEALS COURT)

A recent Federal Appeals court case in Cincinnati demonstrates the kind of situation faced by homeless people in America every day. As reported by AELE Monthly Law Journal, “The evidence in the case showed that a homeless man and his wife were living under a viaduct in Cincinnati, and that when the couple returned to their living space they found a crew from the county taking away their property. When they asked for the return of their property, the work crew supervisor allegedly told him that ‘I’m not allowed to; we have been given orders to clear out under all the bridges.’ They made an effort, subsequently, to locate their property. Although the city’s sanitation division told them that their property would be “held for 30 days,” they were not told where it was located, and a worker with a homeless assistance organization was told by the sheriff’s office that “the stuff from the homeless sites is thrown away.”

Upon further investigation, it was found that the city regularly treated the property of homeless people differently than it did other property. When sweeps of homeless belongings occurred, they typically were all placed together in trash bags and bins and disposed of all together, without any logging of information to track the items. City sanitation workers “distinguished the cleanup of homeless property from the department’s general policy for dealing with personal property found at other locations around the city, stating that any unattended property found elsewhere is taken back to the station, logged, and held as found property, so that someone can prove that the property is theirs, it is returned to them.”

The DHOL survey provides further evidence that this extra-judicial pattern of confiscating homeless people’s belongings without due process of law is commonplace in Denver. More than 60% of all survey respondents report that police have taken their belongings before; 15% report that their belongings are taken “frequently.”

Chart 13. Have Police Ever Taken Your Belongings?



Though hundreds of survey respondents reported that police had taken their belongings—usually on more than one occasion—only a very small percentage (18%) of respondents ever received their belongings back. Even those who did receive their belongings back did not always get them back from police. When asked how they received their belongings back, only 52% said the police returned them. 11% said a friend picked them up (e.g., from off the street where police left them after detaining someone), and 17% said their belongings were found in dumpsters.

IF POLICE HAVE EVER TAKEN YOUR BELONGINGS, DID YOU GET THEM BACK?

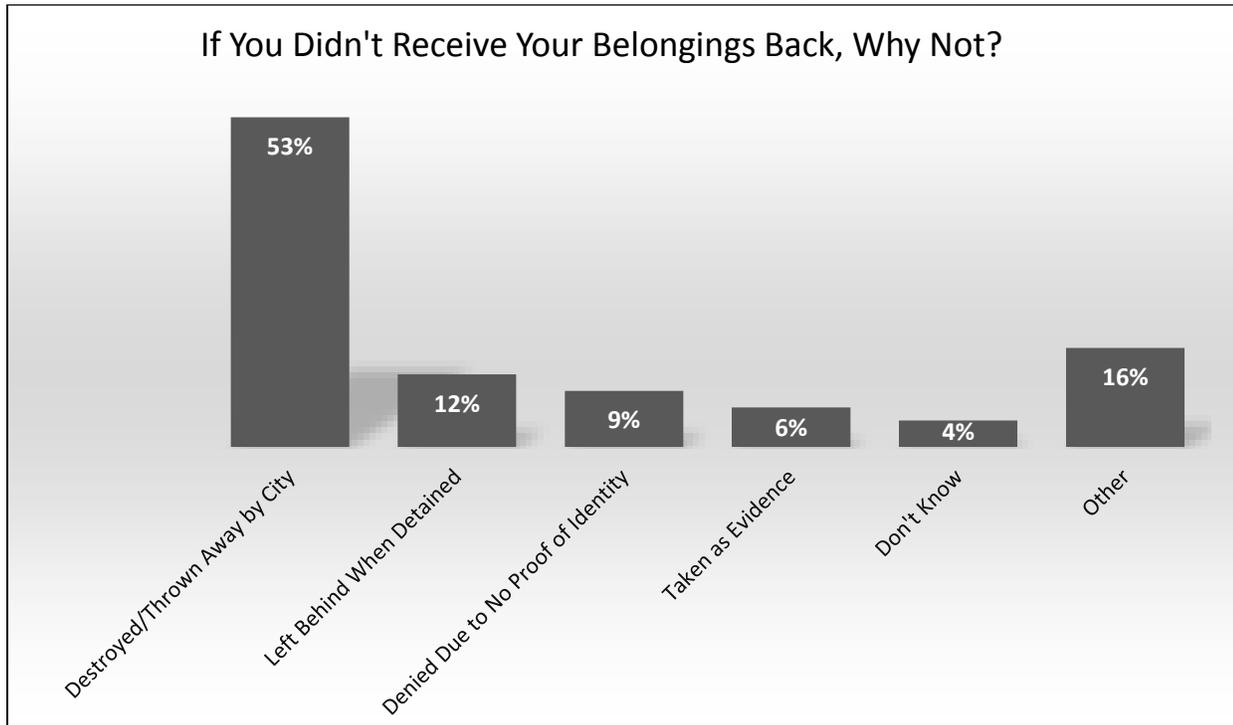
YES: 19%
NO: 81%

IF YOU DID RECEIVE YOUR BELONGINGS BACK, HOW DID YOU GET THEM BACK?

RETURNED BY POLICE: 52%
FOUND IN DUMPSTER: 17%

Sixty-one percent of survey respondents have had their belongings taken by police, and only 19% of those people every received their belongings back, from police, friends or dumpsters. When the 81% of respondents who didn't receive their belongings back were asked why they didn't get them back, they reported the following results.

Chart 14. If You Didn't Receive Belongings Back, Why Not?



Private Security and the Homeless: Policing and Harassment Patterns

A good deal of extra-judicial harassment stems from private security guards and safety officers. Uniformed private security officers are an increasing part of the policing and surveillance in Colorado. Homeless individuals everywhere in the state are likely to encounter building guards and private security officials patrolling their assigned area, and so it is important to understand the nature of those interactions between the homeless and private security forces. One of the most notable of these private security forces, especially regarding the potential for interaction with homeless residents, is the Ambassador program of the Downtown Denver Partnership's (DDP) Business Improvement District. The DDP is a private organization made up of downtown business owners, which plays a special role in managing, programming and maintaining safety and cleanliness on the 16th Street Mall. The DDP has long advocated for increased policing of homelessness in the downtown area. For example, the DDP was a lead organization pushing for an aggressive panhandling ordinance in Denver, in pushing to ban all panhandling in a "convention center" zone downtown, and in pushing for the recent Denver camping ban, which illegalizes a homeless person sheltering themselves from the elements in any way.

For years, the DDP has maintained an “Ambassador” program consisting of uniformed downtown ambassadors patrolling up and down the 16th street mall, helping answer the questions of visitors, and also keeping a close eye on what they perceive as unwanted or disorderly behavior. The DDP’s annual report notes that the group spent \$682,922 on these kind of private “safety” enhancing activities on the 16th Street Mall in 2014. As the report claims: “One of the Downtown Denver Business Improvement District’s (BID). core priorities is to maintain a clean and safe Downtown environment...The BID manages the Downtown Ambassador Program, which features a team of individuals who serve as a safe and welcoming presence on the 16th Street Mall and key surrounding areas. The Ambassadors provide additional support to the Denver Police Department by focusing on ‘quality of life’ crimes, such as aggressive panhandling and graffiti, while also serving as liaisons between struggling citizens and social service agencies.”⁴⁹

How do homeless people experience their interactions with private security and safety forces like these? Though the DHOL survey did not ask about any specific private security force, such as the downtown Ambassadors, it did ask homeless respondents if they had ever been unduly harassed by private security, or witnessed it happening to others. A full 78% of respondents said they had witnessed private security guards “hassling” another homeless person. Along the same lines, 72% of respondents report that they personally had been treated roughly, verbally or physically, by someone other than police. It is unclear how many of these “treated roughly” incidents involved private security guards, but we know from other research that extra-judicial harassment and rough treatment of the homeless by private security is very common.⁵⁰

LOS ANGELES: “VISUAL BLIGHT” AND CONSTITUTIONAL RIGHT

Los Angeles has lost five court cases since 1997 over its efforts to aggressively remove and destroy the belongings of homeless people. The most recent loss came in 2013 when the U.S. Supreme Court refused to reverse lower court rulings that prevent Los Angeles city workers from summarily removing and destroying homeless people’s property left on Skid Row sidewalks. Before the court order, city workers and police commonly disposed of belongings left “temporarily unattended” in the street, which meant that homeless people were having belongings confiscated when they sought social services, attended court hearings, or while they showered or used the bathroom at shelters.

City officials argued that allowing homeless people to leave belongings on sidewalks created a health hazard, but the courts said no evidence of a health hazard was ever presented. The court concluded that homeless people have rights of due process, and summary disposal of their property was illegal.

Undeterred, Los Angeles City has drafted a new 2015 ordinance, allowing police to “quickly clear” unattended property of homeless people, so as to avoid health hazards and “visual blight” in Los Angeles. The property will supposedly be stored in facility where homeless people can retrieve their belongings later, so the city hopes the new ordinance will pass judicial muster.

Chart 15. Rough Treatment of Homeless

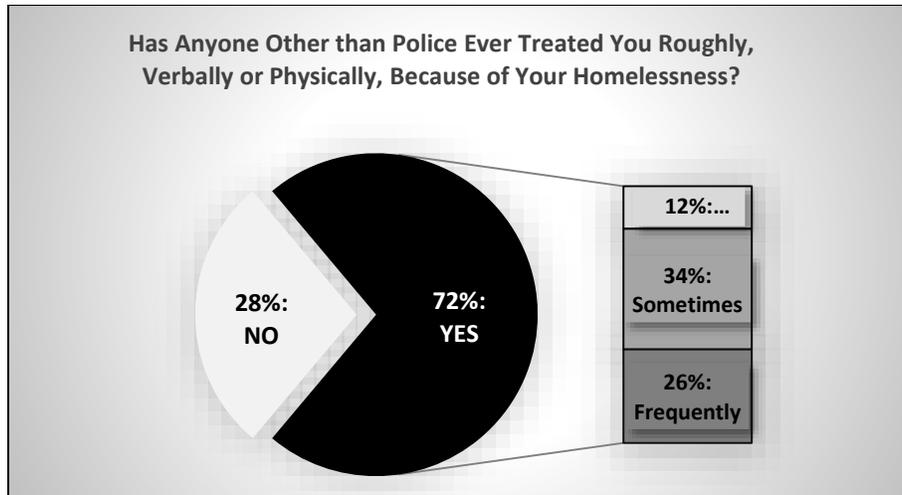
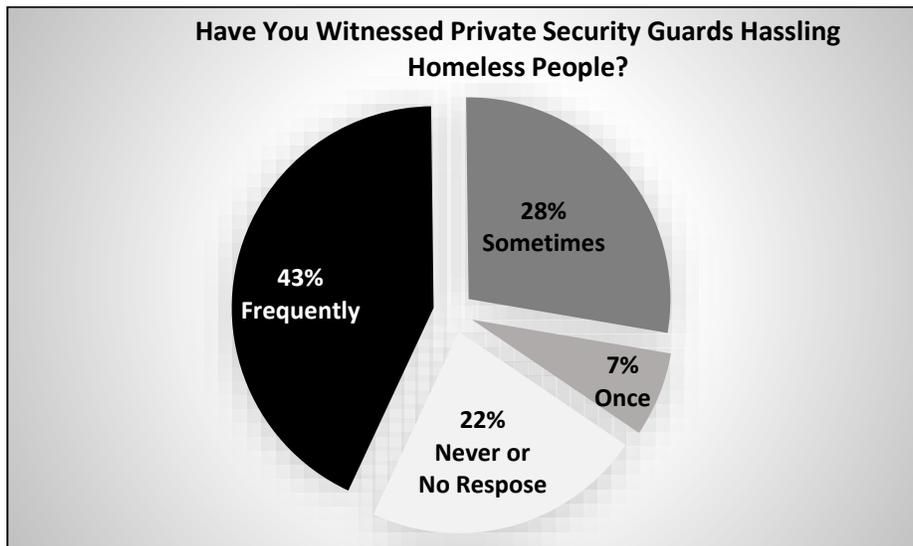


Chart 16. Private Security Harassment⁵¹



A Vancouver (Canada) study of private security interactions with homeless people found:

- *51% of homeless people reported 4 or more encounters with private security guards every month.*
- *“Private security guards routinely overstep the bounds of their authority on public property. This includes guards asking or compelling people to move along when they have no legal authority to do so.”*
- *“Private security guards control access to space (on both public and private property) in ways that are not in keeping with principles of equality and fairness. This includes issuing informal bans from certain buildings, streets or neighborhoods.”*
- *“Private security guards use force illegally...Guards are using force and threats of violence against homeless and other marginalized people on a routine basis.”*

Living Homeless in Colorado

“I’ve Been Kicked in My Sleep; Kicked in My Face”

As part of our survey process, interviewers sat down with homeless individuals and talked about their experiences. This interview involved a man, who has struggled with being homeless in Denver. He describes his experiences with his current job situation, interactions with the police and other people. His real name is not used.



Photo: [Alex Vosifov](#)

INTERVIEWER When you sit/ lay down to rest, do you get bothered by the police? If so, please describe your experiences.

BOB: Here lately, with the camping ban, you always run into the police. But there are also other people, like pranksters. I had a cinder block thrown at me one night, and it hit me in the back of my head.

INTERVIEWER: Is your health affected by the lack of sleep and rest? Do you think this is the result of the police forcing you to leave?

BOB: The lack of rest is real terrible. You're constantly on the move, because I'm told to get up and move on. You kind of get accustomed to it.

INTERVIEWER: Have you tried applying for a job? Please describe your experience.

BOB: I've been working through "temp services". If I find a job that I could do and that I am really good at, I do the best that I can. Like, doing the job correctly and being on time. I do this so that I could get hired. But I haven't been very successful in getting hired. The last time I was working, I was moving furniture. By the time I got off, I had to come back to the shelter, try to get a shower, clean my work clothes and then go back and start all over again. Sometimes my start times would be at 4:30 AM to 5 AM. It was easier not to try. It made me want to give up. There were some jobs that I wasn't done until 8 or 9 o'clock at night. Therefore, I wouldn't be able to get a shelter, I would have to sleep outside. I would have to find somewhere else to get cleaned up, freshened up and come to the door presentable. I just couldn't keep it up. It got harder and harder each day.

INTERVIEWER: Do you have access to hygiene facilities?

BOB: No, only shelters- no public places. The only public place that I have been able to use the bathroom, like a human being is the public library. That's it. Nowhere else. But to use the bathroom anywhere else, other than inside, you get ticketed. It's a long walk if you got to use the bathroom real bad and you have to try 10 different doors; it isn't easy.

INTERVIEWER: How do people treat you in general?

BOB: They look down on you, like you aren't trying hard enough. It's day to day, I never know who I'm going to run into you.

INTERVIEWER: How about law enforcement??

BOB: 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, I had 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.

INTERVIEWER: How about places like a private business? How do they treat you?

BOB: Those places are like a no-no. You are turned straight away when they see you. I avoid them all together now. They don't want me there anyways. Even when I have money. Once you walk inside they treat me different. Even though I clean myself up and shower.

INTERVIEWER: Since you have been homeless, have police contacted you, cited you, arrested you or otherwise interacted with you for any of the following kinds of reasons: sleeping or sitting in public, panhandling, having any kind of shelter in public areas, having a pet, praying or meditating in public, trespass or jaywalking, curfew violations, public drinking or urination, etc.

BOB: Yes, to almost all of those. I've been placed in the car and threatened to be taken down, but then they usually let me go. One time, 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. I was sitting at a bus stop off of Blake Street. 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 everyday.

Homeless Arrest Turns Deadly

“The Police Thought He Had No Value...He Was a Nothing”

The criminalization of homelessness can be deadly dangerous business. The matrix of laws restricting the ability of people without homes to live in public places inevitably means that harassments, citations and arrests of homeless people will occur frequently. In Denver, in fact, homeless people are arrested fully twice more often than the population as a whole. The dehumanizing foundations of many of these laws reflect and foster a spirit of disdain and even cruelty towards people without homes. This disdain is probably why 72% of homeless people report they have been treated “roughly” in their interactions with police and others in Colorado. In the immediately preceding interview, a homeless resident reports being roughed up and kicked in the face by police. Things can become even worse than this kind of rough treatment, as seen in this case of Marvin Booker, a homeless street preacher picked up by Denver police on the 16th Street Mall for failing to appear in court on a drug paraphernalia charge. He never made it out of police custody alive.⁵²

Marvin Booker Died in Police Custody in July of 2010



Marvin Booker was a frail, 5 foot tall, 135 pound homeless street preacher, when he died in custody on July, 2010, in a holding cell under a pile of four Denver police officers. When Booker had turned away from an officer, without permission, to retrieve his shoes that were laying 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 breathes 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. The attack was caught on video and led the 10th Circuit of Appeals to judge against the city for the “wildly excessive” use of force and “deliberate indifference” of its officers, leading to the largest wrongful death settlement in Denver history.

The Marvin Booker case can be seen a case of excessive use of police force that had little to do with Booker's homelessness. But it is important to consider the frequency of police arrests of homeless people (100% higher than arrests of non-homeless), which exposes people without homes to more risk of such aggressive force. Furthermore, homeless people themselves report that aggressive treatment by police is common: in our DHOL survey, 72% report they have been treated roughly. Finally, the approach of the City of Denver during the subsequent trial for Booker's wrongful death is telling of how homeless people are too often viewed by local officials. During this trial, the city's strategy was to portray Booker as nothing more than a homeless criminal, a person with no community and no loved ones, a mentally addled nobody that caused his own death by living on the streets. In response, the African American faith community in Denver came together in media events and in trial testimony to tell the story of Booker as a human being, an old civil rights warrior, and beloved family member whose condition of homelessness did not mean he had no human rights. The fact that the City of Denver fought this argument and had to lose in two courtroom trials before they would consider any offer to Booker's family shows the depth of criminalization and dehumanization in the official response to homelessness.

In an appearance on Democracy Now! to speak on the case, *Colorado Independent* reporter Susan Greene reflected on how Denver officials seemed to think that a homeless street preacher had no value, and were unable to see that Booker actually was a man from a rich community heritage. Here's how Greene remembers it.⁵³



“Another thing is, there was an assumption by Marvin Booker and a portrayal of him after his death that he was just another homeless guy who was causing trouble in the jail. And what they didn’t calculate is that that ‘just homeless guy’ had a rich history in the South, in his hometown in Memphis, where he became really well known, not just in Memphis, but throughout the South and really the nation, for having memorized Martin Luther King’s speeches. His family was close to

Martin Luther King... he was the guy who would go into churches and go into civil rights events and give the speeches that King wouldn’t give, right? He has two brothers who have congregations, who chose to be pastors. They followed in the footsteps of their father. He chose a different path. He wanted to preach on the street like, he said, Jesus did. He wasn’t a saint. He had some drug problems. The fact that he was homeless was disturbing to his family. They tried in many ways to help him. And he was really adamant that’s the life he wanted to live.

So, when he died, again, I think—and I was here when he died, and I know what the city’s response to it was, and I heard the city’s response at trial, which is, ‘this guy had no value, he was a nothing, right?’ And they sat three weeks in trial and just denigrated him and smeared his life. When I say they picked the wrong man, they didn’t know that this man had a community of people in this city, nationally, in the faith community, who were behind him.”

Knifing Tents & Slashing Tires

Grand Junction Police Search Homeless Camp



Grand Junction maintains about 255 shelter beds in the winter, and less in the summer, which city officials admit leave at least 513 homeless people without access to shelter beds. Many of these people have no option but to live in tents in brushy areas along the edges of town. In May of 2010, and consistent with a broader city campaign of “reclaiming” public spaces from the homeless, three Grand Junction police officers entered one homeless camp of multiple tents, in search of

someone suspected to have stolen copper wire. Their actions that day reveal some of the extra-judicial tactics commonly used by police in their interactions with the homeless.⁵⁴

Upon entering the camp site (and without a warrant), the three officers used knives to cut open several unoccupied tents, and explained later that cutting up tents was a common police tactic at transient camps. When asked by press why the officers didn’t simply unzip the tents at the doorway, officers replied that going in the door of the tent would expose officers to a “fatal funnel,” with potential for injury or death. In addition to booby traps with feces and urine, there are barbs and fish hooks you have to worry about,” one officer noted.

Officers smashed food that was left on tables (Oreo cookies and bananas) in what they described as a “poke” with their batons. The officers also “disabled” two bicycles by slashing the tires. The officers claimed that since the encampment was on public space, the homeless residents had no rights of privacy or property. Thus no warrant was necessary to cut open and search the tents, and bicycles could be considered “unclaimed property” which could be destroyed by police.

After these incidents came to light, the Grand Junction chief of police fired these officers for their improper police practices. However, the officers retained lawyers and sued the city for damages, claiming these tactics were all consistent with the police training they had received, and had been used commonly by other Grand Junction officers.

What we do know is that the homeless respondents to this report’s survey claim that such tactics of police are common. Most homeless respondents cite frequent, harsh treatment by police. More than 80% say their belongings have been summarily confiscated by police, and most never receive these belongings back. For those living without homes, constitutional and human rights are simply not secured. This Grand Junction story shows that privacy and property rights, the right to be free of search and seizure without due process, and the right to be considered innocent until proven guilty are all granted and taken away at the whim of local authorities and police.

Violations of Basic Human Rights



This report has so far examined the ways in which local laws create an inhumane system in which the movement of homeless people through public space is seen as a “visual blight” to be illegalized, and in which a wide range of survival activities that people must engage in to live (such as sleeping or sheltering from the elements) is made illegal for homeless people. The report has also explored the range of extra-judicial harassment and punishment commonly imposed on Denver’s homeless residents, in violation of the law. But beyond these concerns, there is also strong evidence that homeless people are denied even the most basic of human rights—water, bathrooms, work, children—with troubling frequency.

Most people believe that all human beings are entitled to fundamental human rights, regardless of their income level. The right to water, the right to use a bathroom, and the right to sleep, for example, would probably win broad support in our community. Many of these basic rights are mentioned in the UN Declaration of Human Rights, which declares that all people in the world have a right to water, to shelter, to a job, to raise a family and to access vial public services like bathrooms (among many other important rights).

However, the reality is that people living without homes are commonly denied these rights. For example, largely as a reaction to the growing homelessness challenge, public bathrooms are increasingly scarce, and some studies have called it a public health crisis. A DHOL survey of public restrooms that could be termed accessible to the homeless identified just 25 restrooms in central Denver, and none of them are open 24/7, and not all have running water—hardly an adequate number for the several thousand downtown homeless, as well as all others who put demands on these bathrooms. Many of these have special requirements such as being on the shelter’s list, and many are porta-potties which are less than clean. None of these are bathrooms with water owned and maintained by the city. Similarly, in Grand Junction, city officials have systematically shut down public bathrooms and turned off water fountains in an effort to “reclaim” downtown parks from the homeless.⁵⁵

Another common violation of a basic human rights is the way aggressive policing of the homeless results in lack of sleep. Laws prohibiting sleeping or sitting in public places, coupled with laws prohibiting use of “shelter,” sleeping in one’s car, or violating park curfews, predictably expose homeless people to persistent police harassment whenever they try to rest or sleep. In a 2013 survey of more than 500 Denver homeless residents following the passage of Denver’s 2012 “camping ban,” respondent reported far more contact with police than before the ban, and a subsequent loss of sleep.

- 60% report that they get little sleep as they frequently are being “moved along.” One interviewed person described his situation: *“I am one of the “working” homeless. I get regular work through standby (a temporary job service.) But I don't make enough to afford my own place. So I sleep outside. But for two days in a row I was too tired to go to work because the cop wouldn't leave me alone. Every time I'd go to a new spot, this cop would follow me and tell me, ‘move along. You can't stay here.’ I was trying to sleep in alleyways, out of the way of the yuppies. I even went to the river but he followed me there. I didn't get a ticket, but I didn't sleep either, and I lost two days' pay as a result”*
- After the Denver Camping Ban passed, 53% of homeless survey respondents said they felt less safe with their new sleeping situation. *“Nowhere is safe to sleep anymore, said one respondent. “So I don't sleep. I keep moving. I'm more fatigued. Less functional.”*
- 50% say their lack of safe sleep is leading to a worse quality of life. *“I'm in a bad mental state for lack of sleep,” noted one survey respondent. “I'm more negative. I worry about anyone approaching. I sleep less. It's stressful. It's hard to sleep when you don't feel safe where you're at. I have physical fatigue from lack of sleep.”* This self-reporting matches our medical knowledge that lack of sleep is profoundly dangerous to health and decision-making capacity. As described by Dr. Mercola, *“The enactment of laws against sleeping and resting in public spaces increases the chances of one seeking emergency medical help due unhealthy bodily changes caused by a major lack of sleep. It can also affect one's behavior in making rational choices which can result in an increase in drug addiction and crime.”*

In addition to difficulties in finding a bathroom or getting some sleep, homeless people face difficulties securing a job (as employers commonly are biased against hiring a person without the stability and appearance of someone living in a home), in finding clean potable water, and in maintaining custody of their children. For example, in Philadelphia, a woman unable to make her rent payments became homeless, moved into a local tent city, and lost custody of her children for not being able to provide an adequate living situation.⁵⁶ A Scottsdale homeless woman had her children placed in protective custody for leaving them in a car when she went for a job interview.⁵⁷ The Metro Denver Homeless Initiative reports that a common fear of homeless families is that they will lose custody of their children if they are caught without a roof over their heads.

DHOL survey results (see next page) confirm the ongoing challenges of securing these rights for homeless residents in Denver. When becoming homeless means that a person faces a daily struggle to find a bathroom, cannot always find safe and clean water, is not allowed to find a night's sleep, and faces loss of their children—it is fair to say that homelessness entails a violation of fundamental human rights.

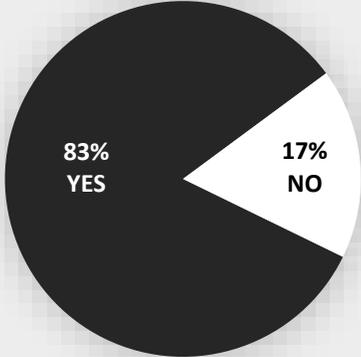
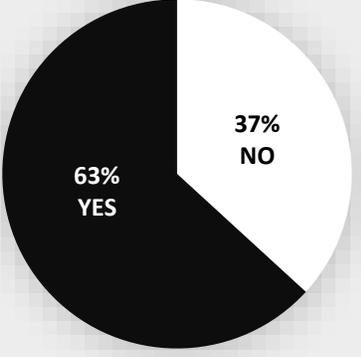
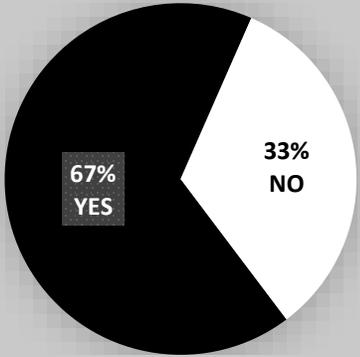
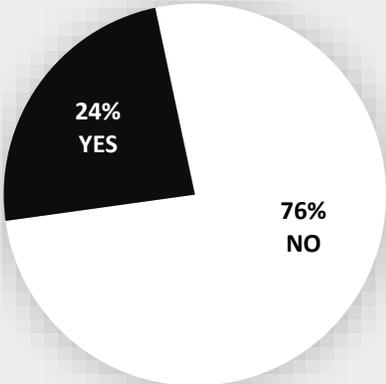
UN Declaration of Human Rights	DHOL Survey of Denver Homeless: "Have you ever been denied access to any of the following because you were homeless?"													
<p>"Everyone has the right to a standard of living adequate for the health and well-being of himself." (Article 25)</p>	<p>Denied Access to a Bathroom?</p>  <table border="1"> <tr><th>Response</th><th>Percentage</th></tr> <tr><td>YES</td><td>83%</td></tr> <tr><td>NO</td><td>17%</td></tr> </table>	Response	Percentage	YES	83%	NO	17%	<p>Denied Access to Water?</p>  <table border="1"> <tr><th>Response</th><th>Percentage</th></tr> <tr><td>YES</td><td>63%</td></tr> <tr><td>NO</td><td>37%</td></tr> </table>	Response	Percentage	YES	63%	NO	37%
Response	Percentage													
YES	83%													
NO	17%													
Response	Percentage													
YES	63%													
NO	37%													
<p>"Everyone has the right to work...without any discrimination." (Article 23)</p>	<p>Denied Employment?</p>  <table border="1"> <tr><th>Response</th><th>Percentage</th></tr> <tr><td>YES</td><td>67%</td></tr> <tr><td>NO</td><td>33%</td></tr> </table>		Response	Percentage	YES	67%	NO	33%						
Response	Percentage													
YES	67%													
NO	33%													
<p>"Men and Women of full age..have the right to marry and to found a family...the family is the natural and fundamental group unit of society and is entitled to protection by the society and the state." (Article 16)</p>	<p>Denied Custody of Your Children?</p>  <table border="1"> <tr><th>Response</th><th>Percentage</th></tr> <tr><td>YES</td><td>24%</td></tr> <tr><td>NO</td><td>76%</td></tr> </table>		Response	Percentage	YES	24%	NO	76%						
Response	Percentage													
YES	24%													
NO	76%													

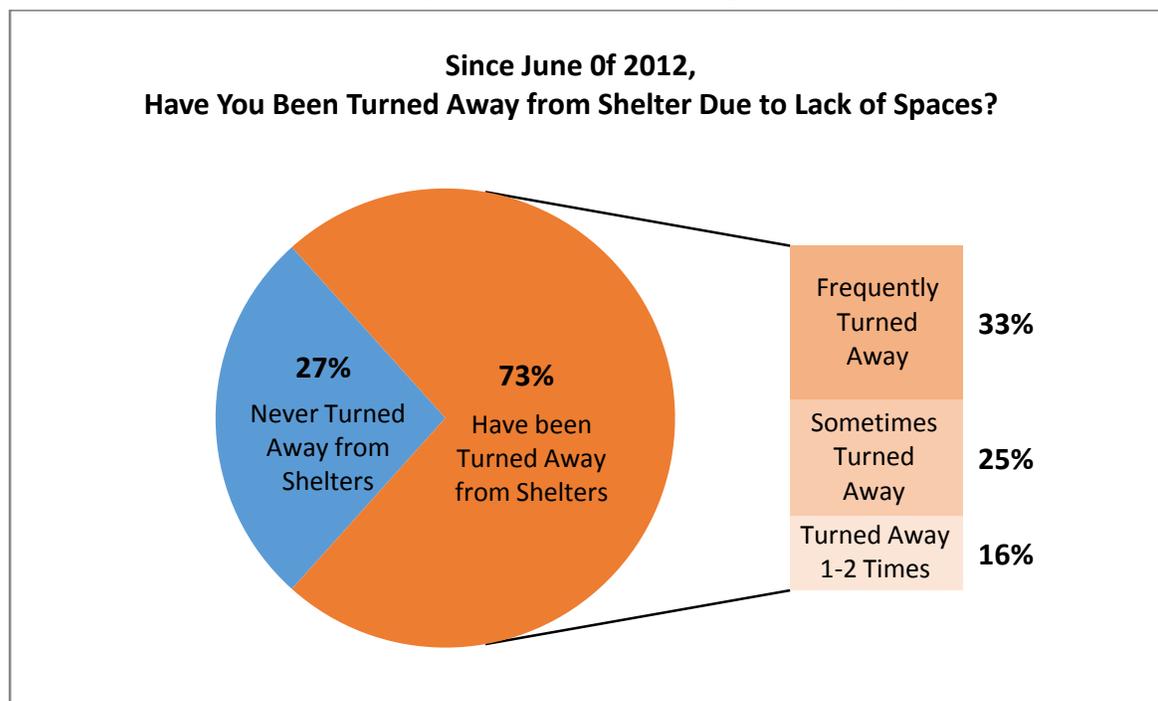
Chart 17. Violations of Basic Rights of Homeless People

Rights Violations in Homeless Shelters

Often, advocates of anti-homeless laws defend those laws by arguing that homeless people need to be encouraged to leave the streets and enter into homeless shelters, where they can receive services, while leaving the streets free of the public display of poverty. In defending Denver’s ban on sheltering oneself in public, Mayor Hancock argued that “this ordinance is needed to help address the challenge of people sleeping outdoors in the elements. It is simply inhumane to allow anyone to be exposed to the dangers this poses...Removing the option to camp on our streets will...provide the impetus to better connect people to services such as shelter, food and clothing.”⁵⁸

Such an argument ignores two important facts. First, there are simply not enough shelters beds available for all of the region’s peoples without homes. Tom Leuhrs of the St. Francis Center shelter estimates that at least 300 people every night in Denver can’t find shelter indoors,⁵⁹ and local officials have long admitted that Denver has an unaffordable housing market and inadequate shelter units. In a 2012 survey of 512 homeless respondents, Denver Homeless Out Loud found that 73% had been turned away from shelters due to lack of appropriate space—33% had been turned away frequently.⁶⁰

Chart 18. Homeless Respondents’ Record of Being Turned Away from Shelters



It is an impossible situation, and a violation of basic human rights, to admit that there are no indoor shelter options for hundreds of people every night, but to nevertheless make it illegal for those people to sit, lie down, sleep or find shelter in public areas. Furthermore, shelters themselves are not always the best location for dignified respect of the civil and human rights of homeless people. For example, the DHOL survey asked respondents if they ever felt their privacy was violated while at a shelter or service provider. A range of common violations of privacy were reported by many respondents.

Chart 19. Privacy Violations at Shelters and Service Providers

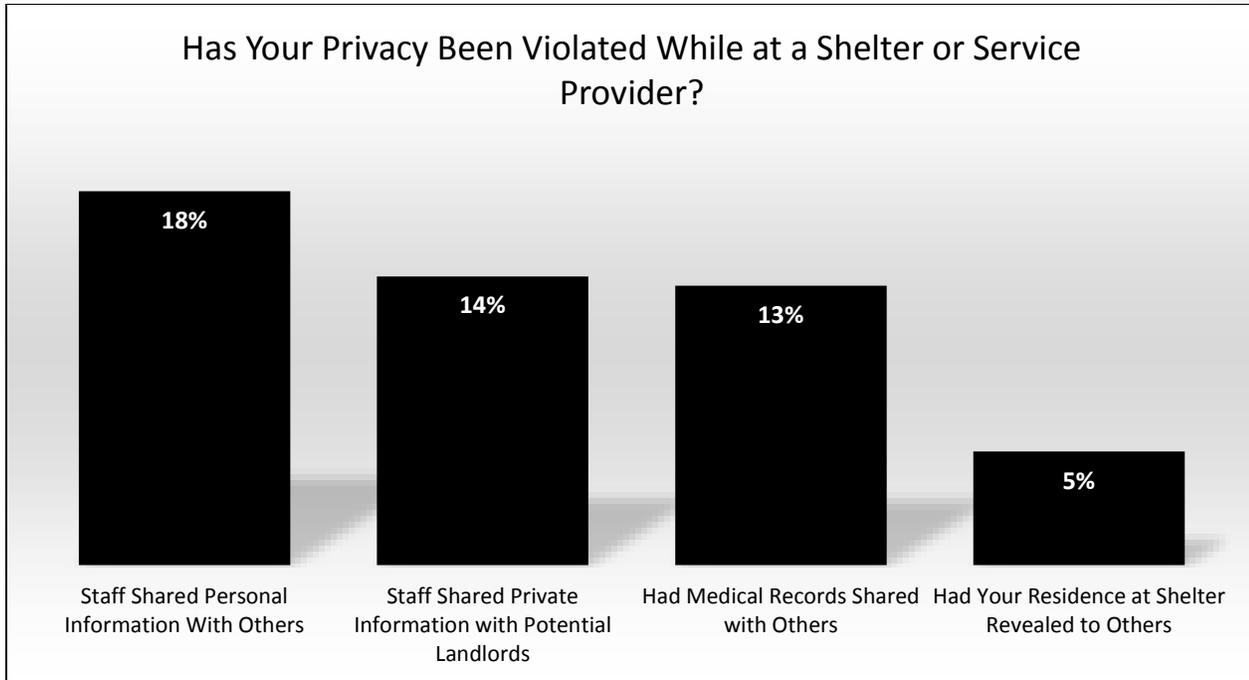


Chart 20. Have You Been Treated With Respect by Service Providers?



Almost half of respondents say they are “never” or only “sometimes” treated with respect by service-providers. What this data suggests is that the existence of an emergency shelter system is hardly a justification for the kinds of persistent harassment homeless people face at the hands of police and private security. The number of shelter beds is inadequate to meet the need in the Denver area, and shelters themselves are commonly experienced as harsh and rights-violating environments by homeless residents. There is a bit of cruelty involved in denying homeless people even a right to sit or rest in public areas, while urging those people to seek a non-existent and often undignified indoor shelter bed instead.

Homelessness as a Criminal Condition

"They just put you up in a jail. That's the resolution to all their problems."

As part of our survey process, we sat down with several homeless residents and talked about their experiences. This interview involved a homeless woman who has spent years unsheltered on the streets of Denver and Boulder. She describes her experiences with the laws that criminalize survival acts in public space. Her real name is not used.



INTERVIEWER: Talk about your general experience on the streets.

PATTY: When I first became homeless, I didn't know what to expect. I had my kids with me, there were options as far as you know, staying in a motel, having your own room, things like that. But getting into shelters were a little more difficult with my kids, then without. There weren't many places we could go. Then I sent my kids home and started camping out more.

That was my first couple years of being homeless. After that I started sleeping more on streets, because it was easier, you didn't have to deal with all the crap in the shelters and all the crazy people you run into. I moved up to Boulder because it was quieter and wasn't as crazy, the cops weren't as nuts.

INTERVIEWER: Let's jump into some of these laws that criminalize certain acts in public space. Have you been harassed or ticketed or arrested for sleeping, and can you talk about some of those scenarios?

PATTY: When I first started sleeping on the streets, Denver wasn't really that big of a deal, you could snuggle up in a cubbyhole, and the cops would walk right past you, they wouldn't bother you. In Boulder, they already had the law in place: "No Urban Camping." So, my first camping ticket was in Boulder.

That was nuts, I didn't expect that, getting kicked awake and all that crap. I've been ticketed, I don't know how many times, I've lost count. I've been to jail over it. You know, they expect you to pay a \$100 fine when you can't even pay for a place, that's enough for a motel room. Don't you think, if I had the money, I would be in a motel room? They just put you up in their jail, that's a resolution to all their problems.

INTERVIEWER: Tell me what happened in Denver when the Denver Camping Ban passed, how did that affect your situation?

PATTY: Well, I think mostly being an activist and the cops knowing who I was, was a big part of that. Getting a camping ticket, because I was sitting in a park on a blanket was stupid. The ticket was dismissed, because they didn't put it in right. That's right after the ban passed.

INTERVIEWER: How did that help or not help your situation? In terms of spending time in jail vs. being out?

PATTY: You can't do anything when you're arrested all the time. I had doctor appointments, I have to see several doctors, I have to see a specialist as well, but I couldn't do that. I couldn't see my attorney for my Social Security. I couldn't fax paperwork. I couldn't go get the resources that I needed. You can't call to the people you need to. It's a hot mess.

You know, America is supposed to be a free country, but you don't have the right to sleep. It makes me wonder. I've asked the cops, "do you want me to become a crack-head and stay up all night? I don't know about you, but I like my sleep, I don't like being crazy in the head, because I haven't rested enough."

Its nuts to be woken up all night, move here, move there, do this- it's ridiculous. You have all your things with you, you're cold, you're tired, you need rest and you just don't get it. The Judge in Boulder says, "It's okay to go to the park during the day and sleep with a blanket covering you, but sorry you can't sleep at night." And we still get harassed by the cops for having a blanket covering you, sleeping in the park during the day.

PART III

The Colorado “Right to Rest” Act



Responding to the Human Rights Crisis: CO's "Right to Rest" Act & Beyond



The National Inter-Agency Council on Homelessness has called anti-homeless laws “cruel and counterproductive,” for the simple fact that these laws are morally suspect in that they target the most vulnerable members of our community, they are legally fraught as they violate constitutional and human rights, and they are pragmatically counter-productive, costing localities substantial funds to police and incarcerate homeless people.

A more humane, legally defensible and practical approach is called for. Recognizing this fact, there are growing movements to encode rights for homeless people into state codes (such as a right to sit in public). Some states have responded by passing “Homeless Bills of Rights” (such as Rhode Island, Connecticut and Illinois), and pressure is growing for other jurisdictions to join the movement. The Western Regional Advocacy Project, a network of homeless advocacy groups, is pushing to pass a “Right to Rest Act” in Oregon, California and Colorado this year. “The act, the first of its kind, would protect all residents’ right to rest, allowing people to occupy and use public spaces without fear of discrimination.”⁶¹ In Oregon, Chip Shields of the state senate was the first to sponsor the Right to Rest Act, stating: “people who are homeless not only struggle with life on the street, they struggle with the indignity of being treated like criminals because they have nowhere to eat, sit or sleep. This bill is about making sure everyone is treated humanely under the law.”⁶²

Denver Homeless Out Loud (DHOL) is the local Colorado WRAP member leading the campaign here in Colorado. In the Colorado General Assembly, several state legislators are working with DHOL and other organizations to pass a “Right to Rest” Act. The bill was originally sponsored by Representatives Salazar and Melton and by Senator Kefalas and co-sponsored by eight other representatives. The bill expresses the profound concern of many that criminalizing homelessness is immoral and ineffective public policy, a modern form of economic segregation that must be challenged.

"The Colorado Right to Rest" Act: Legislative Summary

“Establishes basic rights for persons experiencing homelessness, including, but not limited to, the right to use and move freely in public spaces without discrimination, to rest in public spaces without discrimination, to eat or accept food in any public space where food is not prohibited, to occupy a legally parked vehicle, and to have a reasonable expectation of privacy of one's property.”

Former Colorado Representative Robert Bowen

Speaks About His Experience with Homelessness and in Favor of a Right to Rest



“We live in the richest land on earth. We’re in a very prosperous city, but tonight thousands of people don’t know where their next meal is going to come from, or where they are going to sleep. I think that any current or former elected official who isn’t trying to do something to solve the problem.

“Twenty-seven years ago, I was on the top of the world. I had a good business. I had season tickets to the Broncos. I was in my third term

in this building. Life couldn’t be better. A year later, I was out of office. I lose the election. There was a recession. I lost my business, and I lost all my assets. So I went out to California to start over, but then the recession hit California.

“I’ll never forget the day the sheriff came and evicted me from my home. All I had was a car. But at least I had a car. So the first night, I pulled into a commercial district and parked, trying to get some sleep. No sooner had I dozed off when there was a tap on the window. A police officer tapped with his billy club and said “you can’t stay here; you can’t sleep here. If you don’t move, I’ll arrest you for vagrancy and impound your car.” So I spent about a week spending whack a mole with the cops. Trying to stay one step ahead of them, going from one place to another.

“Finally I got a friend to give me some money for gas, and I went out into the desert, where I spent a few weeks sleeping in rest areas, where at least I could sleep without being harassed. I didn’t tell anyone about my problem because there’s such a stigma to failure in this country, such a stigma to poverty. I was a former representative, and I couldn’t bear to tell even my own family that I was homeless. But I was lucky. I had a friend who sensed it and said “we need our house remodeled. Would you come out and we’ll pay you to do it.” I did and I eventually pulled myself back up.

“But I know what it’s like to have that feeling of you can’t even sleep in your own vehicle without fear of going to jail. I know what it’s like to not know where your next meal is coming from. I know what it’s like to have people look at you and judge you. There’s a million reasons why people are homeless. Every single homeless person has a different reason. Some of its disease. Some of its addiction. Some of it is bad luck. Some of it is total despair. But one thing that’s true about every single person is that they’re human beings. If you believe in god, they are all children of god. They are all worthy of their dignity. They are worthy of our respect. They are worthy of love. They are worthy not to be judged by anybody. And everyone has a right to rest.”

THE COLORADO RIGHT TO REST ACT

Legislative Declaration

(a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT MANY PERSONS EXPERIENCE HOMELESSNESS BECAUSE OF ECONOMIC HARDSHIP, A SEVERE SHORTAGE OF SAFE AND AFFORDABLE HOUSING, THE INABILITY TO SECURE GAINFUL EMPLOYMENT AND A DISINTEGRATING AND SHRINKING SOCIAL SAFETY NET;

(b) RESPONDING TO THE GROWING CRISIS OF HOMELESSNESS WITH CRIMINAL SANCTIONS TO PUSH PEOPLE OUT OF PUBLIC SPACES AND INTO COURTS AND JAILS IS COSTLY, INHUMANE, INEFFECTIVE, AND VIOLATES BASIC CIVIL, HUMAN, AND CONSTITUTIONAL RIGHTS;

(c) THE EXISTENCE OF HOMELESSNESS REQUIRES THAT CIVIL AND HUMAN RIGHTS THAT ARE AMPLY PROTECTED IN THE HOME AND IN OTHER PRIVATE PLACES BE EXTENDED TO THE PUBLIC SPACES IN WHICH PERSONS EXPERIENCING HOMELESSNESS LIVE TO ENSURE THE EQUAL RIGHTS OF ALL COLORADANS;

(d) CITIES THROUGHOUT COLORADO ARE ENACTING AND ENFORCING LAWS THAT CRIMINALIZE BASIC ACTS OF SURVIVAL, SUCH AS SLEEPING, SITTING, LOITERING, SLEEPING IN A LEGALLY PARKED VEHICLE, HAVING A REASONABLE EXPECTATION OF PRIVACY IN PERSONAL PROPERTY, STORING BELONGINGS, ASKING FOR HELP, AND USING A BLANKET TO COVER ONESELF IN A NON-OBSTRUCTIVE MANNER, REGARDLESS OF OUTDOOR TEMPERATURE. SUCH LAWS RESULT IN PEOPLE IN COLORADO BEING CRIMINALLY PUNISHED FOR DOING WHAT ANY PERSON MUST DO TO SURVIVE;

(e) LOCAL ORDINANCES OF THIS KIND DO NOT REDUCE THE INCIDENCE OF HOMELESSNESS OR CRIME. INSTEAD, THEY INCREASE INCARCERATION RATES AND THE FINANCIAL INDEBTEDNESS OF PEOPLE WHO SIMPLY HAVE NO MEANS OF SUPPORTING THEMSELVES. THE LOCAL ORDINANCES PROLONG HOMELESSNESS BY MAKING IT MORE DIFFICULT FOR PEOPLE TO SECURE HOUSING, EMPLOYMENT, AND MEDICAL CARE.

(f) WHILE THESE LOCAL ORDINANCES APPLY TO ALL RESIDENTS OF A CITY OR MUNICIPALITY, THEY DISPROPORTIONATELY IMPACT PEOPLE WITHOUT HOMES AND PEOPLE WHO HAVE NO PRIVATE PLACE TO REST OR SEEK NOURISHMENT. THEY ARE OFTEN SELECTIVELY ENFORCED AGAINST PEOPLE BASED UPON THEIR APPEARANCE OR AN ASSUMPTION OF HOMELESSNESS.

(g) THE DECRIMINALIZATION OF REST WILL ALLOW LOCAL GOVERNMENTS TO REDIRECT RESOURCES AND SHIFT THEIR FOCUS FROM LAW ENFORCEMENT ACTIVITIES TO ADDRESSING THE ROOT CAUSES OF HOMELESSNESS AND POVERTY.

HB-1264

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A BILL OF RIGHTS FOR PERSONS**
102 **EXPERIENCING HOMELESSNESS.**

Section 24-4.5-104. Protected rights of persons experiencing homelessness

- (2) A person experiencing homelessness is permitted to use public space in the same manner as any other person experiencing homelessness is permitted to use public space in the same manner as any other person without discrimination based on housing status. Every person in the state shall have the following basic human and civil rights, which may be exercised without being subject to criminal or civil sanctions or harassment by law enforcement, public or private security personnel, or district agents:
- (f) The right to use and move freely in public spaces without discrimination or time limitations that discriminate based on housing status;
 - (g) The right to rest in public spaces and protect oneself from the elements in a non-obstructive manner;
 - (h) The right to eat, share, accept, or give food in any public space where food is not prohibited;
 - (i) The right to occupy a motor vehicle, provided that the vehicle is legally parked on public property or parked on private property with the permission of the property owner; and
 - (j) The right to a reasonable expectation of privacy on one's personal property in public spaces to the same extent as personal property in a private residence or other private place.

* Note: The preceding language is from the Colorado Right to Rest Act, as originally introduced. As the Bill moves through the legislative process, amendments will naturally change some of the language and provisions of the Bill.

Beyond the Right to Rest Act

The Colorado Right to Rest Act is critically important to address the immediate human rights crisis facing thousands of Colorado residents living without homes today. But simply establishing a right for impoverished people without alternatives to survive in public places will not adequately address the scale of the crisis. Other important steps must be taken to mitigate homelessness and thereby improve the quality of life in Colorado, both for homeless residents and for the broader community in which they live. Two vital steps are the provision of 24 hour hygiene facilities and the development of substantial new permanent low-income housing units.

24 Hour Hygiene Facilities

Declaring a right for homeless people to survive in public spaces will not address their basic needs to access bathrooms, clean water, and basic hygiene facilities. Across the state, the numbers of 24 hour public bathrooms have declined, and access to clean water is increasingly difficult for people living without homes. Cities like Grand Junction have been known to strategically lock public bathrooms and shut off water fountains in parks where people without homes congregate. Such policies violate the human rights of impoverished homeless people and put public health at risk by fostering unsanitary practices and increasing risk of disease.

A local and state-wide commitment to providing 24 hygiene facilities where people without options could use the bathroom and access clean water is a pressing need in the state.

Expanding Low-Income Housing Option

The most effective solution to homelessness is more low-income housing. Very few homeless people would choose to live on the street, in public places, if independent, low-income housing options were available. Denver Housing Out Loud joins the plethora of housing advocates state-wide who have consistently called on Colorado officials to develop substantial new revenue sources to address Colorado's significant low-income housing gap.

Across the state, there are a raft of reports describing the many options for expanding low-income housing financing streams; what is missing is not policy ideas, but rather political will. Effective policy solutions include such things as:

- Consideration of new fees, such as a new development such as a real estate transfer tax, or an “impact fee” which could be assessed on a per square foot of new development basis and which would offset the increased affordable housing and human services generated by new commercial development across the state.
- Reform of Tax Increment Financing (TIF) processes across the state so that a dedicated percentage of all future TIF-funding streams is reserved for a low-income housing revenue streams.
- Passage of local or state-wide tax or bond proposals to establish affordable housing trust funds.

These are not unusual proposals, nor would they make Colorado less competitive with other states in terms of attracting business and development. In fact, each of these policy ideas have been adopted by multiple states and dozens of cities across the nation and Colorado is unusual in its dearth of revenue streams to support low-income housing. For example, almost 500 cities and 131 counties across the United States—and many entire states--currently have affordable housing trust funds, funded through such things as general obligation government bonds, voter approved taxes, impact fees and tax increment financing housing set-asides. Instead of Colorado officials passing all manner of legislation banning survival in public places in Denver, they should show similar energy in developing housing/service funding streams similar to other American jurisdictions.

Together, these recommendations would substantially improve the quality of life for Colorado’s homeless residents, while also moving Colorado down the road to building a community where people didn’t have to live in public places.

Colorado clearly needs new hygiene facilities where people can attend to their fundamental human needs. The state also deserves a deeper official commitment to expanding low-income housing options.

Finally, in the immediate here and now, treating the homeless as criminals for their acts of public survival must stop.

Colorado should have the conviction to honor the human rights of all residents, and take the ethical and pragmatic step of recognizing that everyone, rich or poor, has a right to rest.

PART V

Appendices & Endnotes



Appendix A: CO Anti-Homeless Laws



Sample Colorado Laws Restricting Survival in Public Spaces (List not comprehensive)

Arvada	<ul style="list-style-type: none"> • 66-54 Prohibited activities • 52-62 Loitering • 62-40.5 No Trespass orders for city owned property • 62-57 Urination and defecation in public
Aurora	<ul style="list-style-type: none"> • 94-116 Loitering in the Colfax Corridor, sitting in easements • 94-117 Lying down or sleeping in the business district • 94-119 Loitering in Colfax Corridor, aggressive begging
Bennet	<ul style="list-style-type: none"> • 10-3-10 Unlawful Conduct on Public Property • 8-5-10 Parking, Storage and Use • 10-5-50 Loitering (for purpose of begging) • 10-4-9 Trespassing
Boulder	<ul style="list-style-type: none"> • 10-3-10 Unlawful Conduct on Public Property • 8-5-10 Parking, Storage and Use • 10-5-50 Loitering (for purpose of begging) • 11-5-70 Hours of Public Use • 10-4-9 Trespassing
Colorado Springs	<ul style="list-style-type: none"> • 10-3-10 Unlawful Conduct on Public Property • 8-5-10 Parking, Storage and Use • 10-5-50 Loitering (for purpose of begging) • 11-5-70 Hours of Public Use • 10-4-9 Trespassing
Durango	<ul style="list-style-type: none"> • 17-57 (e) Trespassing • 17-24 Loitering • 17-43 Aggressive begging
Fort Collins	<ul style="list-style-type: none"> • 17-181 Camping on public property restricted • 17-122 Staying in Medians Prohibited • 17-44 Misuse of public waters • 17-127 Panhandling
Thornton	<ul style="list-style-type: none"> • 18-173 Accessory Dwelling Unit • 18-569 Use of Vehicle as Building • 38-271 Urinating or defecating in public • 38-207 Blocking streets or sidewalks; solicitation on streets
Wheat Ridge	<ul style="list-style-type: none"> • 17-33 Camping • 16-106 Loitering • 16-46 Trespassing • 17-31 Begging, soliciting • 16-113 Sales and solicitation in certain places prohibited • 16-114 Aggressive solicitation prohibited

Appendix B:

DHOL Reflects On Bill of Rights Campaign



Reflections on the Colorado Homeless Bill of Rights Campaign

By Denver Homeless Out Loud

The criminalization of existing and surviving in public spaces is not just reflected in Denver's Camping Ban, but in a number of Denver laws, and in many other laws at play in cities and towns all across Colorado. Some of us came to know this through reading Colorado municipal laws online, and some of us came to know this by police harassing us or our friends for simply being in public space. Either way it became clear to us that ending this cycle of dehumanization, move alongs, tickets, and arrests inflicted on homeless people across Colorado could not be achieved just by overturning one law in one city, but must be done with statewide legislation that legalizes being human in public space. Just as discriminatory laws of the past that used to push certain people out of public spaces, such as Jim Crow laws and anti-Okie laws, were ultimately overturned by higher government, so today discriminatory laws used to push homeless and poor people out of public spaces must be overturned by States.

While personal experience and legal research are grounds for understanding there is a serious problem, it does not necessarily show the breadth or specific nature of the problem. In order to ensure the legislation we create is based on the experiences and priorities of a large number of homeless people across Colorado, we developed a survey, building on the survey tool used by the Western Regional Advocacy Project (WRAP) in California and Oregon. Our survey concerned police interventions against survival acts in public space, as well as additional questions about access to shelter, housing, and other resources. On May 18th, 2014 we held a surveyor training and kickoff event for the *Colorado Homeless People's Rights Survey*. Over the next five months we surveyed almost 500 people who are homeless in ten different Colorado cities.

The findings of this survey are disturbing to say the least. As you see laid out in detail in this report, the majority of people we spoke with are being treated as criminals just for trying to survive on the streets. At the same time large numbers of people are unable to access shelter, and are denied housing and other needed resources.

After entering all the survey data and working with graduate students to analyze the findings, we proceeded to draw out the issues which rose to the top. We marked all the findings which 50% or more of survey respondents had been negatively impacted by. We marked all the questions which concerned a basic act of survival which all humans must do. In the end we included all issues which the majority of people are being criminalized for and which also are basic acts for survival, as a priority in our bill. We also chose to include the right to sleep in your vehicle, even though only 24% of respondents reported being criminalized for this, because it is such an obvious survival activity that must be protected. We also chose to include the right to eat, share, and accept free food, even though only 23% reported being criminalized for this, because again it is such a basic survival need to eat and because there is a fast spreading increase in laws prohibiting food sharing.

Through this process we came to agreement on the following five rights of the Homeless Bill of Rights Campaign: (1) the Right to move freely, rest, sleep, and protect oneself from the elements in public spaces without time-limitation that discriminates based on housing status; (2) the Right to occupy a legally parked vehicle; (3) the Right to a reasonable expectation of privacy of your property in public space; (4) the Right to eat, share, accept, or give food in any public space in which having food is not prohibited; and *(5) the Right to 24-hour access to hygiene facilities. (**This will be for a separate bill at a later time.*) These rights are almost identical to the core rights which WRAP came to through the same process of outreach to homeless people in California and Oregon.

Throughout this whole process we have collaborated with WRAP and as we kicked off our Homeless Bill of Rights Campaign we began working more closely with WRAP. There are now four states--California, Oregon, Washington, and Colorado--working together on this campaign.

When it came time to turn the core rights of our campaign into legal bill language, we benefitted greatly from all the work WRAP had already done, together with ACLU lawyers. Since the core rights of our bill are almost the same as those of California and Oregon's bill, we were able to work with WRAP and the ACLU to draft a Colorado version of our bill using WRAP's draft. While the larger Homeless Bill of Rights Campaign also includes future bills to address access to hygiene facilities and legal defense, the first bill we are pushing is the Right to Rest Act, which focuses on legalizing survival acts in public space.

We began seeking out a sponsor for the Right to Rest Act a couple months before the January deadline. We met with a number of Senators and Representatives who were supportive of the cause but had too many bills, or could not commit at the time for one reason or another. Finally, two days before the deadline, we met Representative Joe Salazar who right away said, "yes, of course I will sponsor this bill!" Senator John Kefalas had already committed to sponsoring in the Senate if we found a lead in the House, and Representative Milton shortly joined Representative Salazar as Sponsor in the House.

Just after Martin Luther King Jr Day, WRAP members across three States and eight cities joined in a Day of Action in support of the Right to Rest Act. We held our "Right to Rest Festival" on February 2nd at the State Capital. Roughly 300 people showed up, 35 people spoke, including 25 homeless people with experiences of criminalization, and 3 State legislators. People who are homeless came all the way from Fort Collins, Boulder, and surrounding suburbs to support this bill.

We are committed to press on with the struggle to pass the Right to Rest Act here in Colorado to ensure that all Coloradans' right to rest is protected. As with any vast, widespread, and deeply root violation of basic human decency, it is going to take a movement to make things right. This movement must be driven by the realities of what is happening day in and day out to poor and homeless people simply existing in public spaces. We continue to gather surveys and hold community forums with people experiencing homelessness to ensure this bill and campaign are true to the realities and priorities of people without housing across the State. We are publicizing these realities through this report, presentations, handouts, and a video documenting the experiences of over 20 homeless people in Colorado. We continue to meet with our State legislators to educate them on the need for this bill and urge them to vote in favor. We continue to work with WRAP to build this movement to end the criminalization of homelessness, not just here in Colorado but all across the west.

"First they ignore you, then they laugh at you, then they fight you, then you win" - Gandhi

Appendix C: Right to Rest Act

Frequently Asked Questions



The human indignity of homelessness impacts roughly 17,000 Coloradans and their communities. Ending homelessness nationwide should be a top priority of policy makers and, until this is achieved, the criminalization of people simply because they have no home must be immediately halted. The Right to Rest Act of 2015 (HB 15-1284) will protect people who are homeless from citations and imprisonment resulting from resting, having belongings, or sharing food in public. Citations and jail time only worsen the condition of people without homes and limit their opportunities to escape homelessness. By acknowledging how municipal laws that criminalize homelessness actually deepen poverty, we believe that passage of this legislation will encourage more humane and effective responses to homelessness.

Question: What is the overall problem this legislation is trying to solve?

Response: The prevalence of homelessness in the 21st century's economic and political system has not only led to violations of internationally recognized human rights; it also threatens the public health of entire communities. The Right to Rest Act of 2015 seeks to protect the basic human rights of people to rest by outlawing municipal laws that criminalize homelessness and the survival act of resting and sharing food in public. This change will shift focus to addressing the true root causes of homelessness and its consequences on families, communities, and society.

Question: I live in a home rule city. What gives the state the right to decide how we deal with homelessness in our city?

Response: Homelessness, and the criminalization thereof, are of statewide concern. Local laws against resting, sleeping and eating in public space are currently being enforced in cities across Colorado. These laws violate the State Constitution by preventing people from “defending their lives” and “obtaining their safety” by carrying out acts of survival in public space. Other practices, such as seizing, searching, destroying and disposing of homeless people’s belongings without probable cause, violate people’s constitutionally protected right to possess and protect their property. These violations commonly occur during “sweeps” of sites where homeless people sleep. Because local jurisdictions are increasingly passing and enforcing such unconstitutional ordinances and rules, a state law is needed to prevent such occurrences.

The U.S. Conference of Mayors found that the approach of criminalizing homelessness hurts local governments, does not solve homelessness, and can make the homelessness crisis worse. The federal government, through the Interagency Council on Homelessness, has said the same thing.

Further, homelessness is not isolated to a few cities or to large cities, but occurs throughout Colorado. Also, people without homes move from place to place throughout our state. Therefore, an effective, statewide response is needed. Just as local discriminatory laws of the past, such as Jim Crow or

Wetback laws, were overturned at the state and federal level by those who recognized the immorality of such laws, so today the state of Colorado must take legal action to overturn laws that discriminate against homeless people and to protect their right to rest in public space.

Question: Isn't housing the solution to homelessness? If we just focus on housing we won't need to worry about homeless people being criminalized.

Response: We agree that the solution to homelessness is permanent housing, and that our entire society must work together to ensure that truly affordable housing is available to all who need it. But such a solution is not being implemented today, nor unfortunately does it seem to be "just around the corner." Meanwhile, people who lack housing and must conduct their survival activities in public space are being treated as criminals for this activity. Such criminalization is unconstitutional, immoral, and counterproductive. A state law is needed to protect people's right to exist in public space, even while we work to create the public will to provide affordable housing opportunities to all who need it. There is every reason why we must work to correct both wrongs--the criminalization of homelessness and the lack of affordable housing for all--at the same time.

Question: The people who sleep outside do so by choice. If you make it legal, won't more and more people do it?

Response: Many people who sleep outside would move indoors if "choices" that were appropriate for their needs, like independent housing, were available to them. Many people are afraid of sleeping outside and choose to sleep in shelters whenever possible. Others sleep outside rather than in a shelter because there are not nearly enough shelter spaces for all who need them, and shelter is not a permanent solution for homeless. Many people with mental health conditions are unable to tolerate shelters. There's a lack of shelter spaces for couples, LGBTQ individuals, families, young people, people with disabilities, and people with pets. Many are fearful of the bugs, violence, theft, and unsanitary conditions which they often associate with shelters. Many who have jobs cannot stay at shelters because shelters have strict check in times that conflict with their work schedules.

As Denver Homeless Out Loud's 2013 report on the effects of the Urban Camping Ban revealed, making outdoor "camping" illegal did not stop people from doing it. It just pushed them away from safer, more accessible, better lit areas into more hidden, less lit and therefore more dangerous areas--which also made it harder for outreach workers to engage with them.

The way to reduce the number of people who are sleeping and living outside is not to criminalize their efforts to exist in public space, but rather to make appropriate shelters, day centers, services, and--especially--housing available to those who need and want it. One reason we do not have adequate housing and services to meet the needs of homeless Coloradans is because of the high priority municipalities have placed on law enforcement activities against homeless people. If the money spent on the enforcement of anti-homeless laws (including policing, court processing, and incarceration) were instead spent on permanent affordable housing, we could end homelessness.

Question: But aren't most homeless people dirty? Don't they make our downtown areas look gross and push visitors away?

Response: The way to keep homeless people from looking dirty is not by criminalizing their existence, but by providing appropriate shelters, restrooms, showers, storage facilities, day centers,

and, especially, housing. Homeless people do not want to be dirty. While there may be shoppers and visitors who are discouraged from coming downtown by the sight of homeless people, we believe that a majority of housed people would not want homeless people's rights to be violated, but instead would want positive steps to be taken to ease their burden and end their homelessness. Most camping bans are passed by the vote of a few individuals, pressured by businesses. They are generally not passed by the vote of the people, a majority of whom would likely oppose such laws.

This bill does not give people the right to leave trash about, urinate in public, aggressively panhandle, block a doorway or passageway, or engage in destructive activities. It simply protects the right of all people to move about freely, rest, sleep, protect themselves from the elements, eat and share food, and engage in other basic acts of human survival.

Question: Don't we need laws to keep homeless people from hanging out and sleeping downtown and in neighborhoods in order to keep crime down?

Response: There is no statistical evidence to support stereotypes about a relationship between homelessness and serious crime, like assaults or burglary. The idea that homeless people are criminals is a myth that has been perpetuated to make others afraid of homeless people and willing to support draconian measures against them--such as passing bans on sleeping outside and spending millions of dollars on policing their activities and "moving them along"--money that should be spent on needed services and on combatting real crime. The real problem is crime and violence experienced by homeless people--especially the many elders, youth, women, and disabled among the community--whose need to survive outside makes them so vulnerable to violence.

The National Coalition for the Homeless' 2013 report, *Vulnerable to Hate: A Survey of Hate Crimes and Violence Committed Against Homeless People*, documented 1,437 acts of violence against homeless people committed by housed perpetrators between 1999 and 2013--including murders, rapes, beatings and mutilations. By criminalizing homelessness instead of dealing with its root causes, our local governments are forcing homeless people into more hidden, and less secure, areas--where the risk of being attacked is increased. Criminalizing homelessness, instead of providing appropriate solutions, sends the public the message that "homeless lives don't matter"--they're fair game.

Question: If we can't have park curfew laws, camping bans, and "no loitering" ordinances, won't homeless people take over the parks, causing other people to stay away?

Response: Please remember that housed people have houses in which to sleep, rest and socialize. They also, to varying degrees, have a greater ability to go to coffee shops, restaurants, movies, plays and clubs to socialize and be entertained. Unhoused people, on the other hand, have shelters (if they can get in and tolerate the environment), a few overcrowded day centers in which they are segregated from everyone else, and public spaces, such as libraries, downtown areas, and parks. If homeless people tend to dominate certain parks, it is only because they have nowhere else to go and have a perfect right to be there. Anyone, housed or unhoused, who violates any law or legitimate rule that does not discriminate based on homeless status, is and should be subject to being removed and/or prosecuted. There is no reason why other people should "stay away" from public spaces in which homeless people congregate. If public officials and the media didn't perpetuate the myth of homeless people as criminals, others would probably not be so scared to be near them, and people would come to better know, understand and appreciate each other.

Question: Why would I want to help people who are lazy, act like criminals, and refuse to help themselves? Shouldn't they just get a job so they can pay for their own housing?

Response: This question is based on untrue stereotypes and false assumptions. Regarding "getting a job"--According to the 2014 Metro Denver Homeless Initiative Point in Time survey, 30.8% of respondents said they or a family member had worked in the last 30 days. Nationally, the number

most frequently reported is 44%. As to why don't work regularly, it is difficult to find or keep a job while living in a shelter or under a bridge, with no place to store your belongings and no way to afford transportation. Further difficulties are the unlikeliness of being hired once a homeless person answers the obligatory questions about their current residence, their credit, or their criminal background--even though offenses may have happened long?

Regarding the expectation that homeless people should "pay for their own housing"--Many full-time workers are unable to do this. In Denver, for example, if a person worked full-time making minimum wage at an entry level job, they'd clear \$1280 a month after taxes. If they rented a 1 bedroom apartment at the average Denver rental rate of \$1244, they would be left with \$36 for everything else.

Question: But won't citing homeless people at least motivate them to move out of a certain neighborhood, or maybe move indoors?

Response: No. As local police precincts race to respond to complaints about homeless people in their areas, most homeless people have nowhere else to go, so they are forced to remain in public space. As citations for "quality of life" activities add up, so do fines that are impossible to pay. When homeless people are arrested and even incarcerated just for being too poor to pay for these tickets, they acquire a criminal record that creates barriers to housing and employment. The criminalization of homelessness not only violates homeless people's human rights, but also perpetuates and deepens their poverty by creating legal barriers to exiting homelessness.

Question: Why would I want people sleeping in their cars and trucks to park outside of my house?

Response: What makes someone sleeping in their vehicle by your home--because they have nowhere else to sleep--more threatening to you and the neighborhood than someone sleeping in their home next door? Get to know the people. You will likely find that there is nothing to be worried about, and even that they make the neighborhood safer by keeping additional eyes on the street to protect your house from burglary and by deterring other crime.

Question: If we feed homeless people in public, won't they just leave their trash everywhere?

Response: This is a common misconception. Many people, not just homeless people, leave their trash everywhere. If there were more trash cans available, then there would be less trash everywhere. Furthermore, organizations that distribute free food bring their own trash receptacles, often leaving public areas cleaner.

Question: What do you mean by the right to share food? Don't we feed homeless people enough already?

Response: It's not a matter of feeding them "enough." There are laws across the country criminalizing

the act of simply sharing food with anybody in public. This Act will prevent laws like that from being passed in Colorado.

In many cases food-sharing programs are the only occasion in which some homeless individuals will have access to healthy, safe food. The 2013 Hunger and Homelessness Survey, conducted by the United States Conferences of Mayors, found that:

- 83% (19 of 25) of cities surveyed in 2013 reported an increase in the number of emergency food requests from the previous year;
- 91% reported an increase in persons requesting food assistance for the first time;
- 80% reported an increase in frequency of visits to food pantries and emergency kitchens each month.

The need for food assistance is growing in our communities and we must ensure that those who wish to share food with those in need can continue to do so in public space.

Question: So if this law passes homeless people can just start sleeping in my doorway?

Response: No, they cannot block doorways. The bill states clearly that people can “rest in public spaces and protect oneself from the elements, *in a non-obstructive manner.*” Current laws prohibiting obstruction of a passageway, and preventing people from sleeping in private spaces such as a private doorway, would still be in effect.

Question: Won't this bill prevent law enforcement from searching criminals for drugs and weapons because of the expectation of privacy of one's property?

Response: This bill does not change law enforcement's right to search someone and/or their property when they have probable cause of suspecting the person has illegal drugs or weapons. However, as is protected in the US Constitution, people's right to a reasonable expectation of privacy of their property will be respected when one is in public space, just as it is in private space.

Question: Will passage of this bill mean that city crews will no longer be able to clean up public areas?

Response: No. Laws against littering and obstructing a right-of-way would still be in place, so cleanup crews could still do their job. It just means that cleanup crews will not be allowed to simply throw away possessions of value to people--like backpacks, sleeping bags, and blankets when those possessions are on public property and are not obstructing a right-of-way.

Question: Won't this bill prevent law enforcement from dealing with safety issues or pursuing criminals because cops will be afraid of being sued?

Response: This bill does not prevent law enforcement from pursuing criminals. It prevents law enforcement from pursuing Homeless people simply for living in public space. If somebody is breaking a law, then law enforcement has every right to pursue them. Law enforcement will no longer have to pursue people who are performing basic acts of survival like sleeping or resting.

Question: How will cities deal with people's bad behavior in public places if this bill passes?

Response: The Right to Rest Act would not affect localities' ability to enforce laws against such things as assault, being drunk in public, harassment, or trespassing. It would only end the practice of arresting or citing people for the simple acts of survival such as resting or sharing food in public.

Question: Doesn't the Right to Rest Act just incentivize homelessness?

Response: NO. The Right to Rest act merely makes survival legal. Homelessness is not a condition that most people *choose*. In most Colorado cities, there are far more homeless people than there are shelter beds, and the public housing waiting lists are long and have many restrictions. Even when shelter beds are available, they often fail to meet the needs of families to stay together, of women, elderly or victims of trauma, people with disabilities, and people with pets. The data show that homelessness is caused by the lack of affordable housing. When the federal government stopped funding new public housing--spending dropped from over \$16 billion per year in 1978 to nothing since 1996--homelessness tripled or quadrupled in every major U.S. city and has risen steadily since. Ironically, the criminalization of homelessness actually perpetuates homelessness by creating legal barriers to accessing housing and employment. If you want homeless people off the street, stop criminalizing them.

Endnotes



** The MDHI homeless survey did not break down age ranges in the same way as the DHOL survey did. Therefore, the demographic comparisons don't perfectly match, in the age categories. But the overlap between age ranges is significant enough to conclude that the DHOL demographics were substantially similar to the MDHI demographics.

***LGBT: Lesbian, Gay, Bisexual, Transgender

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- ⁴⁰ When the authors of this report requested information from the Denver police department regarding recorded police contacts with homeless people in the preceding two years, the department delivered a record of 1013 police contacts between 2012-2014. This database is a record of documented contacts between police and homeless individuals who the police contacted due to possible violations of the Denver camping ban. Not every police interaction with a homeless resident will appear in this database of documented, written-up contacts.
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Denver Homeless Out Loud
www.denverhomelessoutloud.org