EXECUTIVE SUMMARY

Imagine a world where it is illegal to sit down. Could you survive if there were no place you were allowed to fall asleep, to store your belongings, or to stand still? For most of us, these scenarios seem unrealistic to the point of being ludicrous. But, for homeless people across America, these circumstances are an ordinary part of daily life.

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.

This report provides an overview of criminalization measures in effect across the nation and looks at trends in the criminalization of homelessness, based on an analysis of the laws in 187 cities that the Law Center has tracked since 2009. The report further describes why these laws are ineffective in addressing the underlying causes of homelessness, how they are expensive to taxpayers, and how they often violate homeless persons' constitutional and human rights. Finally, we offer constructive alternatives to criminalization, making recommendations to federal, state, and local governments on how to best address the problem of visible homelessness in a sensible, humane, and legal way.

Key Finding: Homeless People are Criminally Punished for Being in Public Even When They Have No Other Alternatives

Homelessness is caused by a severe shortage of affordable housing. Over 12.8% of the nation's supply of low income housing has been permanently lost since 2001, resulting in large part, from a decrease in funding for federally subsidized housing since the 1970s. The shortage of affordable housing is particularly difficult for extremely low-income renters who, in the wake of the foreclosure crisis, are competing for fewer and fewer affordable units.

In many American cities there are fewer emergency shelter beds than homeless people. There are fewer available shelter beds than homeless people in major cities across the nation. In some places, the gap between available space and human need is significant, leaving hundreds or, in some cases, thousands of people with no choice but to struggle for survival in outdoor, public places.

Despite a lack of affordable housing and shelter space, many cities have chosen to criminally punish people living on the street for doing what any human being must do to survive. The Law Center surveyed 187 cities and assessed the number and type of municipal codes that criminalize the life-sustaining behaviors of homeless people. The results of our research show that the criminalization of necessary human activities is all too common in cities across the country.

Prevalence of laws that criminalize homelessness:

- **Laws prohibiting "camping"[1] in public**
  - 34% of cities impose city-wide bans on camping in public.
  - 57% of cities prohibit camping in particular public places.
- **Laws prohibiting sleeping in public**
  - 18% of cities impose city-wide bans on sleeping in public.
  - 27% of cities prohibit sleeping in particular public places, such as in public parks.

1 Laws that criminalize camping in public are written broadly to include an array of living arrangements, including simply sleeping outdoors. See, e.g., Orlando, Fla., Code of the City of Orlando, Fla., tit. II, ch. 43, § 43.52(1)(b) (1999), https://library.municode.com/HTML/13349/level2/TITIICICO_CH43MIOF.html#TITIICICO_CH43MIOF_S43.52CAPREX ("For the purposes of this section, 'camping' is defined [in part] as . . . [s]leeping out-of-doors.").

- **Laws prohibiting begging in public**
  - 24% of cities impose city-wide bans on begging in public.
  - 76% of cities prohibit begging in particular public places.
- **Laws prohibiting loitering, loafing, and vagrancy**
  - 33% of cities make it illegal to loiter in public throughout an entire city.
  - 65% of cities prohibit the activity in particular public places.
- **Laws prohibiting sitting or lying down in public**
  - 53% of cities prohibit sitting or lying down in particular public places.
- **Laws prohibiting sleeping in vehicles**
  - 43% of cities prohibit sleeping in vehicles.
- **Laws prohibiting food sharing**
  - 9% of cities prohibit sharing food with homeless people.

Examples of cities with bad criminalization policies:

- **Clearwater, Florida.** Although 2013 data from the local Continuum of Care reveals that nearly 42% of homeless people in the area are without access to affordable housing and emergency shelter, the City of Clearwater criminalizes camping in public, sitting or lying down in public, begging in public, and sleeping in vehicles.
- **Santa Cruz, California.** A whopping 83% of homeless people in the Santa Cruz area are without housing or shelter options, yet the city criminalizes camping in public, sitting or lying down on public sidewalks, and sleeping in vehicles.
- **Manchester, New Hampshire.** 12% of homeless people in the City of Manchester are without housing or shelter options, yet the city criminalizes sleeping, lying down, sitting down, and camping in parks and other public places throughout the city.
- **Virginia Beach, Virginia.** Approximately 19% of homeless people in Virginia Beach have no option but to perform all of their daily functions outside due to a lack of access to housing and shelter, yet the City of Virginia Beach makes it illegal to sit, lie down, beg, or sleep in vehicles anywhere within the city.
- **Colorado Springs, Colorado.** 13% of homeless people in the Colorado Springs area are without housing or shelter options, yet the city criminalizes sleeping in public, camping in public, and begging.
- **El Cajon, California.** Nearly 52% of homeless people in the El Cajon area are without access to shelter, yet El Cajon restricts or bans sleeping in public, camping in public, begging in public, and sleeping in vehicles.
- **Orlando, Florida.** 34% of homeless people in the Orlando area are without shelter beds, yet the city restricts or prohibits camping, sleeping, begging, and food sharing.

Key Finding: The Criminalization of Homelessness is Increasing Across the Country

There has been an increase in laws criminalizing homelessness since our last report in 2011. While the increase is seen for nearly every surveyed category of criminalization law, the most dramatic uptick has been in city-wide bans on fundamental human activities. This increase in city-wide bans shows that the nature of criminalization is changing and that cities are moving toward prohibiting unavoidable, life sustaining activities throughout entire communities rather than in specific areas, effectively criminalizing a homeless person's very existence.

Change in Criminalization Laws since 2011:

- **Camping in Public**
  - City-wide bans on camping in public have increased by 60%.
  - Bans on camping in particular public places have increased by 16%.
- **Sleeping in Public**
  - City-wide bans on sleeping in public have not changed since 2011.
  - Bans on sleeping in particular public places have decreased by 34%.

- **Begging in Public**
  - City-wide bans on begging in public have increased by 25%.
  - Bans on begging in particular public places have increased 20%.
- **Loitering, Loafing, or Vagrancy Laws**
  - City-wide bans on loitering, loafing, and vagrancy have increased by 35%.
  - Bans on sitting or lying down in particular places have decreased by 3%.
- **Sitting or Lying Down in Public**
  - City-wide bans on sitting or lying down in particular public places have increased by 43%.
- **Sleeping in Vehicles**
  - Bans on sleeping in vehicles have increased by 119%.

Key Conclusion: Criminalization Laws Violate the Civil and Human Rights of Homeless People

Criminalization laws raise important constitutional concerns, and courts across the country have found that many such laws violate the rights of homeless people. Courts have invalidated or enjoined enforcement of criminalization laws on the grounds that they violate constitutional protections such as the right to freedom of speech under the First Amendment, freedom from cruel and unusual punishment under the Eighth Amendment, and the right to due process of law guaranteed by the Fourteenth Amendment.

Moreover, the criminalization of homelessness violates international human rights treaties to which the U.S. is a party. In March, the U.N. Human Rights Committee, reviewing U.S. compliance under the International Covenant on Civil and Political Rights, found that the criminalization of homelessness in the U.S. violated the treaty.

Key Conclusion: Criminalization Laws Are Costly to Taxpayers

Criminalization is the most expensive and least effective way of addressing homelessness. A growing body of research comparing the cost of homelessness (including the cost of criminalization) with the cost of providing housing to homeless people shows that housing is the most affordable option. With state and local budgets stretched to their limit, rational, cost-effective policies are needed – not ineffective measures that waste precious taxpayer dollars.

Examples of Cost Savings Studies:

- In its 2013 Comprehensive Report on Homelessness, the Utah Housing and Community Development Division reported that the annual cost of emergency room visits and jail stays for an average homeless person was $16,670, while providing an apartment and a social worker cost only $11,000.
- A 2013 analysis by the University of New Mexico Institute for Social Research of the Heading Home Initiative in Albuquerque, New Mexico showed that, by providing housing, the city reduced spending on homelessness-related jail costs by 64%.
- A 2014 economic-impact analysis by Creative Housing Solutions evaluating the cost of homelessness in Central Florida found that providing chronically homeless people with permanent housing and case managers would save taxpayers $149 million in reduced law enforcement and medical care costs over the next decade.

Key Conclusion: Criminalization Laws Are Ineffective

Criminalization measures do nothing to address the underlying causes of homelessness and, instead, only worsen the problem. Misusing police power to arrest homeless people is only a temporary intervention, as most people are arrested and incarcerated for short periods of time. Ultimately, arrested homeless people return to their communities, still with nowhere to live and now laden with financial obligations, such as court fees, that they cannot pay. Moreover, criminal convictions – even for minor crimes – can create barriers to obtaining critical public benefits, employment, or housing, thus making homelessness more difficult to escape.

Key Recommendation: Criminalization Laws Should Be Replaced with Constructive Solutions to Ending Homelessness

Criminalization is not the answer to meeting the needs of cities that are concerned about homelessness. There are sensible, cost-effective, and humane solutions to homelessness, which a number of cities have pursued.

The following examples represent important steps in the right direction, and these practices should be widely replicated. It is important to note, however, that the best and most enduring solution to ending homelessness is increased investment in affordable housing. Without additional investment in housing at the level needed to end current and prevent future homelessness, even the best models will be unable to solve the problem.

Examples of constructive alternatives to criminalization:

- **Miami-Dade County, Florida.** Miami-Dade County has dedicated funding for homeless services through its Homeless and Domestic Violence Tax. The 1% tax is collected on all food and beverage sales by establishments licensed by the state to serve alcohol on the premises, excluding hotels and motels. 85% of the tax receipts go to the Miami-Dade County Homeless Trust which was created in 1993 by the Board of County Commissioners to implement the local continuum of care plan and to monitor agencies contracted with by the County to provide housing and services for homeless people.

- **Salt Lake City, Utah.** The State of Utah has reduced chronic homelessness by an impressive 74% since Utah's State Homeless Coordinating Committee adopted its 10 Year Plan to End Chronic Homelessness in 2005. The plan utilizes a highly successful Housing First model that, among other things, sets aside hundreds of permanent supportive housing units, primarily in the Salt Lake City area. The model also creates a streamlined process for assessing a homeless person's need and eligibility for existing housing opportunities in a timely manner, reducing the amount of time one must wait for the services he or she needs.

- **Houston, Texas.** In January of 2011, the Houston Police Department launched its Homeless Outreach Team with the mission of helping chronically homeless people obtain housing. The team, comprised of police officers and a mental health professional, collaborates with area service providers to help homeless people access available resources in the community rather than simply cycling them through the criminal justice system.

Policy Recommendations

- **The federal government should invest in affordable housing at the scale necessary to end and prevent homelessness.**
    - The federal government should fund the National Housing Trust Fund ("NHTF"). To achieve this, the Federal Housing Finance Administration ("FHFA") should immediately release profits from Fannie Mae and Freddie Mac to the NHTF that have instead been given to the US Treasury. In addition, Congress should pass housing finance reform legislation that would provide at least $3.5 billion per year for the NHTF.
    - Congress should provide renewal funding for all Section 8 vouchers currently in use and provide additional vouchers to assist homeless individuals and families, domestic violence survivors, and people with disabilities.

- **The federal government should play a leadership role in combatting the criminalization of homelessness by local governments and promote constructive alternatives.**
    - HUD should ensure that fewer McKinney-Vento homeless assistance grant dollars go to communities that criminalize homelessness. HUD should better structure its funding by including specific questions about criminalization in the annual Notice of Funding Availability, and by giving points to applicants who create constructive alternatives to homelessness while subtracting points from applicants who continue to criminalize homelessness.
    - The Department of Justice ("DOJ") should ensure that its community policing grants are not funding criminalization practices. In addition, DOJ should write its guidance documents to actively discourage criminalization, and it should take a more active role in investigating police departments that violate the civil rights of homeless people.

- USICH should publicly oppose specific local criminalization measures, as well as inform local governments of their obligations to respect the civil and human rights of homeless persons.

- **State governments should enact and enforce Homeless Bill of Rights legislation that explicitly prohibits the criminalization of homelessness.** These laws should be written to ensure that homeless people are granted the right to engage in basic, life-sustaining activities without being subject to harassment, discrimination, or criminal punishment.

- **Local governments should stop criminalizing homelessness.**

  - Local governments should stop passing laws that criminalize homelessness. In addition, local governments should immediately cease enforcing existing criminalization laws and take steps to repeal them.

  - Local governments should dedicate sources of funding to increase the availability of affordable housing, but continue to fund needed homeless services, such as emergency shelter, while there is not enough housing for all those who need it.

  - Local governments should pursue sensible and cost-effective constructive alternatives to criminalization such as improving coordination of existing services and improving police training and practices related to homelessness.