



# NATIONAL COALITION **FOR** HOUSING JUSTICE

## **Policing- and punishment-based approaches: A really expensive way to make homelessness worse**

The [National Coalition for Housing Justice \(NCHJ\)](#) is aligned behind seeking housing justice in order to end homelessness, including youth homelessness. The national organizations that make up the NCHJ represent advocates and leaders in national efforts to end homelessness.

Today, the coalition released the following statement, condemning the ongoing use of law enforcement in response to visible homelessness and calling on the federal government to take steps to stop this harmful approach.

### **Background:**

We can all agree that no one should be sleeping on sidewalks. So we should be able to commit our limited resources **only to those policies and programs that actually work** to ensure people do not have to sleep on the sidewalk (or shelter themselves in their cars, or beg for basic subsistence).

This statement is an urgent call to the growing number of communities that are irresponsibly wasting money to criminalize the publicly visible symptoms of homelessness. These communities are prolonging homelessness rather than expediting connections to housing by leading with a law enforcement approach, rather than addressing the underlying causes of homelessness itself. Proven solutions to preventing and ending homelessness exist, and NCHJ is working to mobilize Americans to implement these solutions at the local, state, and federal level.

The [criminalization of homelessness](#)<sup>1</sup> refers to laws and policies that make many basic, life-sustaining acts into violations of the law or otherwise punishable offenses when they are performed in public spaces. The most common acts to be criminalized are sleeping, sitting and resting, sheltering from the elements, and even asking for help. Some of the laws are framed as anti-camping, -panhandling, -loitering, or -vagrancy. Other laws criminalize living in vehicles, storing personal property in public, or conducting other human necessities in public. Not only are many of these laws intentionally targeted against unhoused people, but communities also enforce “neutral” laws like trespassing or jaywalking mostly or only against people experiencing homelessness. Similarly, laws against running away, breaking curfew, or truancy are disparately used against youth experiencing homelessness. Throughout the country, there has been an [alarming increase of these laws and approaches](#).

The enforcement of these laws trigger a series of deep and wide-ranging harms against individuals, families, and communities. These punishments can range from criminal charges, civil infractions, jail, or involuntary commitment, to the separation of families and the experience of physical danger

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<sup>1</sup> Throughout this document, we use various terminology to refer to this phenomena where all ages of people experiencing homelessness are blamed and punished through official channels. None of these terms is perfect, but they all point to these expensive and ineffective policies and systems. These terms include: a law enforcement/policing approach to homelessness; the criminalization of homelessness; a penalty/punishment approach to homelessness; civil and criminal punishments for being unhoused; and the punishment bureaucracy.

and violence—none of which address the challenges that precipitated any person's experience of homelessness.

All of the above punishments carry additional [collateral consequences](#), which increase the punishment in significant ways and further the cycle of homelessness. Regardless of the original reason for interaction with law enforcement, that single interaction can make it more difficult to find both short-term and permanent housing. These interactions can also lead to losing employment, being denied new employment, and not being able to receive critical services and supports.

Although it is very common for people to feel afraid of people experiencing homelessness, this fear is based on bias and ignorance.

According to [Invisible People's](#) research report [What America Believes About Homelessness](#), nearly half of those surveyed responded that they feel scared of people experiencing homelessness. Related, about 40 percent felt worried that people experiencing homelessness will commit crimes.

In truth, homeless [encampments have been found to decrease crime](#) in the immediate area. People with untreated mental health problems or substance abuse disorders are much more dangerous to themselves than to others and represent a small minority of people experiencing homelessness, though people experiencing these crises may often be most visible to other neighbors.

[Invisible People](#) also recently highlighted this contradiction between how people are valued and how property is valued in our communities. [Cynthia Griffith wrote](#), “As a testament to how illogical we’ve become as a society, public support for homeless criminalization has increased. Simultaneously, many people express an overinflated sense of sympathy for landlords they feel are victims of the [eviction] moratoriums...”

Building policy based on unfounded fears of people experiencing homelessness harms everyone and inhibits public safety.

This growing urgency to make homelessness less visible—including [inhumane, harmful methods that have long proven to be ineffective](#)—is being exploited and perpetuated by an industry of [so-called experts](#). The important thing is not whether proponents of an approach admit it is based in criminalization, but whether the approach is punitive. Examples of approaches with punitive, harmful outcomes include forcing unhoused people into large congregate shelters with strict rules and offering no pathway toward permanent housing or even forcibly committing unhoused people into psychiatric institutions. This all stick/no carrot approach is also a law enforcement/criminalization approach that is very expensive and makes homelessness worse.

### **The Problems:**

#### ***Police- or punishment-based approaches to homelessness exacerbate racism, exclusion, and bias.***

Root causes of homelessness cannot be separated from white supremacy and racism and, as a result, [Black Americans](#) represent 40% of people experiencing homelessness in this country, despite constituting only 13% of the overall population. There is also overrepresentation of [Indigenous people and other people of color](#), and overrepresentation based on [gender identity, sexual orientation](#), and [disability status](#). People with multiple marginalized identities, such as LGBTQ+ people of color, are even more vulnerable to homelessness, to criminalization, and to the [ensuing collateral consequences](#).

The legal system itself is entrenched in white supremacy and racism, as well as structural bias against all of the groups mentioned above. Black people are not only more likely to experience homelessness but are also more likely to be: targeted by the criminal legal system, treated more punitively, and more likely to face [housing](#) and [employment discrimination](#), where a “criminal history” can be used as a proxy for racism. Black parents are also more likely to have children removed into foster care. The legal system is ill-equipped to deal with trauma, substance use disorders, mental illness, and disabilities.

### ***Criminalization of homelessness is punitive, cruel, and unfair***

[The immediate cause](#) of our homelessness crisis is not the bad intentions of, or poor choices by, the people experiencing homelessness. Rather, homelessness is caused when systems *take away people’s choices* and leave them with nothing. After all, there simply is [not enough affordable housing](#) for low-income families across the country, even for those working full time. That gap between supply and demand exists at a systemic level and is not caused by individual action.

The vulnerabilities created by stagnant wages and growing housing costs are the direct result of policy decisions by our local, state, and federal governments on how to allocate funds and regulate the labor and housing markets. So why are we punishing people for something that is the government’s fault?

Laws that criminalize homelessness may be enacted under the guise of safety or sanitation, but do not actually address either issue within the realities of living without shelter. In fact, some members of law enforcement have argued that the point of passing laws is to make existing [uncomfortable enough](#) that people would move, and go out of sight, out of mind.

The presence of law enforcement itself creates inhumane scenarios; criminalization encourages law enforcement to target and harass individuals and encampments, and prevalence of criminalization laws encourages individuals to target people experiencing homelessness as well.

While there is a shortage of emergency shelter space on any given night, shelter is not the answer for a long-term affordable housing crisis. It is also important to recognize that there are a number of perfectly [reasonable factors](#) that make [congregate shelters unavailable or untenable](#) for some individuals/families in the short or long term, even outside the current public health crisis of COVID-19.

### ***Law enforcement approaches make it more difficult to end homelessness***

A 2020 study found that [law enforcement approaches “systematically limit homeless people’s access to services, housing, and jobs, while damaging their health, safety, and well-being.”](#)

Fines and fees or time in jail make it more difficult to save enough money to exit homelessness. Any involvement in the criminal legal system makes it more difficult to get and keep employment, to qualify for housing, and/or to keep families together. Ensnaring people in interactions with the police and legal systems create barriers to exiting homelessness. In other words, criminalizing homelessness actually ensures people stay on the streets *longer*.

### ***Law enforcement approaches harm individual and public health***

The disruption caused by losing important belongings and medicine, by having sleep regularly interrupted, or by having to move frequently, can be very detrimental to physical and mental health. That is why the [American Medical Association](#) and the [American Public Health Association](#) have both condemned the criminalization of homelessness generally and evictions, or “sweeps” of encampments specifically.

During the COVID-19 crisis, the [Centers for Disease Control](#) specifically issued guidance directing communities to cease sweeps of homeless encampments and ensure adequate sanitation was provided on site unless individual housing options could be provided. Public health concerns such as trash, human waste, or used needles can all be addressed through constructive measures such as regular sanitation pick ups, portable toilets, or sharps containers without needing to resort to punitive measures that harm the health of people experiencing homelessness.

***Law enforcement approaches do not work, even as a method to reduce visible homelessness.***

While law enforcement approaches are most often adopted in response to community complaints about visible homelessness, they don't even succeed in reducing the visibility of homelessness. A comprehensive study found that "[anti-homeless laws and enforcement fail to reduce urban disorder, but create instead a spatial churn in which homeless people circulate between neighborhoods and police jurisdictions rather than leaving public space.](#)" After all, such approaches do not rehabilitate nor do they provide services. They punish individuals for existing.

Another study found that the [majority of fines under Seattle ordinances targeting vehicle residents were unresolved](#)- and virtually none of the citations under scofflaw or impoundment ordinances were resolved over a five year period. San Francisco's Human Services Agency director described the city's sweeps of encampments of people experiencing homelessness as a "[colossal waste of city resources](#)" and a "[colossal waste of time.](#)"

***Using law enforcement to address homelessness is a waste of money and can harm public safety.***

Criminalization costs communities a lot of money and wastes resources without increasing public safety. Because it is often unconstitutional, the criminalization of homelessness also opens local governments to legal liability and expensive lawsuits.

Chronic homelessness costs taxpayers tens of thousands of dollars per unhoused person per year and much of that money is wasted through high-cost policies that arrest and incarcerate unhoused people. A report from Los Angeles, California, for example, found that the city spends [\\$100 million annually on homelessness, with \\$87 million of that amount devoted to law enforcement](#), leaving only \$13 million for housing and services in the city with the largest unsheltered homeless population in the country. [Salt Lake City, similarly, spends 85% of its homeless services budget on policing](#), according to a state audit.

Police forces are not trained in social work and yet are often expected to be the first or only officials to directly approach people experiencing homelessness. As one prosecutor put it, "[Every time police are called upon to arrest someone who poses little threat to public safety, it takes police officers, prosecutors and judges away from the cases where the public needs us. It fills our jails with people who do not need to be there, wasting taxpayer dollars. If we stopped clogging the system with unnecessary arrests, we would have more time to gather evidence, allowing us to solve more serious crimes and focus on high-risk repeat offenders who truly threaten our way of life.](#)" Research by a Yale Law School clinic found that pressure for criminalization of homelessness comes from local businesses, while local police admitted that "[\[a\]n arrest quite frankly doesn't fix the problem.](#)"

***There are cheaper alternatives that work***

While criminalization of homelessness is expensive and makes homelessness worse, there are cheaper solutions that actually reduce homelessness. Study after study shows that [Housing First](#) approaches and supportive housing models are much cheaper than a criminalization approach and *actually work to prevent and end homelessness*. Housing First is a homeless assistance approach that prioritizes providing permanent housing to people experiencing homelessness and supportive

services as needed, thus ending their homelessness and serving as a platform from which they can pursue personal goals and improve their quality of life.

A rigorous [2021 Urban Institute study](#), for example, found that supportive housing, through a Housing First approach, not only ends chronic homelessness and helps people find stability, but also reduces jail days and lowers the public costs of the homelessness-jail cycle. A [2014 analysis by the Central Florida Commission on Homelessness](#) evaluated the cost of homelessness at \$31,000 per year for law enforcement and medical costs for each chronically homeless person; permanent housing and case managers would cost approximately \$10,000 per year, saving \$21,000 per year per individual housed, and collectively \$149 million over the next decade.

### ***Criminalization is against the U.S. Constitution and against international human rights law.***

Federal courts have repeatedly ruled that anti-panhandling laws violate the First Amendment. Criminalization policies and sweeps have also been condemned by courts as violating Fourth Amendment property rights and Fourteenth Amendment due process rights. The U.S. Court of Appeals for the Ninth Circuit recently ruled that the Eighth Amendment against cruel and unusual punishment prohibits enforcement of laws criminalizing sleeping, sitting, and lying down outside against people with no access to indoor shelter. The [U.S. Department of Justice](#) has weighed in against criminalization and is currently [investigating](#) police departments for unconstitutional practices related to their treatment of unhoused persons.

The criminalization of homelessness is also a matter of serious concern under international law. Criminalization of homelessness is discriminatory and constitutes [cruel and inhuman treatment](#), which violates our obligations under the [Convention Against Torture](#) and the [International Covenant on Civil & Political Rights](#). Further, the criminalization of homelessness has a disparate racial impact, in violation of the [International Convention on the Elimination of All Forms of Racial Discrimination](#).

### **The Solutions:**

***Prevent and end homelessness through housing:*** The solution to the current homelessness crisis is adequate and affordable housing for all people, and support services for all people who want and need them. Homelessness will exist until the gap between wages and housing costs is bridged. Put simply, housing removes the demand for criminalizing homelessness.

***Transformative Justice:*** As outlined in the [transformative justice pillar](#) of [A Way Home America's New Deal](#), the [Vision for Justice](#), and the [Vision for Black Lives](#), the solution to these problems involves dismantling systems of oppression as well as investing deeply and abundantly in ensuring economic and social rights are met for all people.

- [Abolish laws and policies that criminalize homelessness or poverty directly](#), and those laws and policies that criminalize the symptoms of homelessness or poverty. End the use of institutionalization and incarceration in addressing homelessness.
- End the use of police and all forms of punishment, retribution and control in homeless services, education, and child welfare settings and invest in and implement safety mechanisms that are designed and defined by members of the community.
- Outlaw discrimination and abolish policies that exclude or otherwise marginalize people from housing based on housing history, past crimes, and perceived failures and pass federal protections for accessing and retaining housing.

***In the meantime, the federal government must take specific steps to end the criminalization of homelessness.*** These steps include:

- ✧ Establish **regulations and enforcement tools to protect unhoused individuals** from the violation of their fundamental civil and human rights.
- ✧ **Prohibit any federal funds from being used in the criminalization of homelessness.**
- ✧ **Incentivize decriminalization with discretionary funding.** The government can make it easier for communities that decriminalize to access discretionary funds, e.g. funding from the Department of Housing and Urban Development (HUD) or Department of Justice (DOJ).
- ✧ **Create new funding streams to support decriminalization.**
- ✧ Support additional **civil rights investigations** by DOJ into police departments' violations of homeless persons' constitutional rights.
- ✧ Require **federally-funded infrastructure projects** to plan for, and pay for, any persons living in encampments displaced by infrastructure projects to be provided with adequate housing alternatives.
- ✧ Ask states and local governments to **track the housing status** of individuals who are stopped, cited, ticketed, detained, or arrested. DOJ will compile and report on the data annually.
- ✧ **Remove all hostile architecture** from federal space and ensure federal funding, including that from the Department of Transportation and the Department of the Interior, cannot be used to support hostile architecture.
- ✧ **Implement data-driven systems** that are disaggregated and transparent and that hold actors at every level accountable for effective, equitable, non-criminalized responses to homelessness.