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# Beating Down the Lowly: The Criminalization of the Homeless and Alternative Solutions

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Beating Down the Lowly:  
The Criminalization of the Homeless and Alternative Solutions

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December 14, 2011  
Professor Bloom  
CC 300: History of Homelessness

Honor Code: I have neither given nor received nor tolerated the use of unauthorized aid.

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Beating Down the Lowly:  
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In the current economy, the issue of homelessness is increasingly pervading the normal constructs of society. Thousands of men, women, and children struggle to find a place to sleep and enough food to satisfy their hungry stomachs. While many people suffer under these conditions, local governments continue to create new anti-homeless legislation to further eject them out of society. Bans prevent the homeless from urinating, sleeping, camping, and panhandling in public through fines and prison sentences. The laws specifically target the homeless, discriminating against them for actions which are necessary for daily survival. The legal system only further hurts this already destitute population rather than alleviating the problem. Thus, this paper looks at the numerous reports and case studies that evaluate the current criminalizing efforts in order to offer alternative solutions to this social injustice. The accumulating effect of constant segregation and punishment results in a constant cycle of homelessness and the dehumanization of certain citizens. By reevaluating the current trend of criminalization, local governments can actually assist the homeless and provide life changing services rather than contribute to the discrimination. Handcuffing the homeless only exacerbates the social problem plaguing America.

## I. Introduction

It starts out simply enough. Someone loses their job—not uncommon when the unemployment rates remain so high in the United States. The family manages to survive off of their savings for awhile, but they know that it will not last for a prolonged period of time. Thus, all able family members search for work. Day after day, they come back to the apartment unsuccessful in securing any steady employment. The landlord makes threats of eviction if they cannot pay last month's rent; he already has given them a month's leeway in payments but cannot afford to do it anymore. Eviction comes. Upon being kicked out of their apartment, the family has no other choice but to move in with relatives for awhile. Crowding into someone else's home with no sustainable income able to help support the extra food, water, and other needs they require, they soon wear out their welcome here as well. To avoid becoming a burden, the desperate family turns to the streets. Without money and without a house to live in, this family very easily slides down the slippery slope and falls into homelessness. They clearly have enough to worry about: where the next meal will come from, whether or not there will be space in the shelter tonight, and if it will provide enough security to keep them and their precious few belongings safe, etc. They cannot take another setback to their humanity. During the day, this family must kill time in the parks, sometimes catching some shut eye or asking for some spare change. At night, they separate to respective shelters and at times face overcrowding and unsanitary conditions. They do all they can in order to survive from day to day. And then the police enter the picture. The "bulls" give out a ticket for aggressive panhandling, a ticket for public urination, a ticket for sleeping on public property. The tickets surpass all their monetary savings, and upon failure to pay, the accused face jail time. The never ending cycle of poverty begins.

This story, though fictional, sets up an environment of criminalizing the homeless that happens all too often in modern American society. Increasingly cities have developed ordinances and legislation against certain acts often conducted by the homeless population. In efforts to remove the class from disrupting the rest of the community, local governments enforce fines and jail sentences to prevent criminal activity from occurring in public spaces. These crimes of poverty include, but are not limited to: public urination, public sleeping, aggressive panhandling, excessive property on city land, and unregulated makeshift housing. The result of introducing such legislation may remove the homeless population from the public eye, but it does not reduce the problem; instead, it only exacerbates it. The lack of emergency shelters and low income housing options in most cities forces many impoverished citizens to take refuge on the streets. Without the adequate space, these people literally have no other place to go. Thus, they do what they can to survive in the public arena – asking for money, relieving themselves, rummaging for food, setting up tent cities, etc. The continuous legislation targeting the homeless results in an unavoidable cycle of poverty. While government officials may be trying to eliminate homelessness, the legal implications involved only further hurt this destitute population rather than solve the problem. This paper looks at the reasoning behind present criminalization standards as well as specific examples in efforts to uncover better solutions to aid this forgotten population of citizens.

While the homeless have always faced discrimination, part of the reason why criminalization increased recently relates to the notion of compassion fatigue. During the 1970s, Americans struggled against a slowing economy and an energy crisis affecting all socio-economic classes. Media coverage and public support brought increased attention towards the issue of homelessness during this time, resulting in an insurgence of aide to support those

suffering difficult circumstances. While the problem never fully disappeared, when the 1980s and 1990s brought a blossoming economy, the general empathy towards the homeless faded. Over time, the public did not want to hear one more story about a homeless family struggling to make ends meet. In a national survey conducted both in 1993 and 2001, conclusions supported the idea that people regarded homelessness as a less serious problem in 2001 than when previously surveyed in 1993.<sup>1</sup> Thus, the compassion fatigue phenomenon continued into the 21<sup>st</sup> century. The majority of those surveyed (sample size of 435 in 2001) stated that they had “less compassion for the homeless than before.”<sup>2</sup> This does not signify that the majority of those surveyed had no compassion, just less than previously indicated. This survey question showcases the notion of compassion fatigue in that many people no longer considered the homeless problem the greatest issue facing the country. As political science professor Leonard C. Feldman contends in his book *Citizens Without Shelter*, compassion fatigue led to the punitive methods taken on by cities in the modern era.<sup>3</sup> The decreased sympathy towards the destitute allowed for government officials to enact bans against certain activities to remove the homeless from the general view.

One can argue that the compassion fatigue also pervaded the academic field. That combined with only recent attention to the value of history from the bottom up explains the underwhelming supply of resources on homelessness. While the problem has always been present in modern civilizations, historians have just started to delve into the issues, histories, and perceptions surrounding the homeless. Therefore, the narrow scope of criminalization becomes also very limited as historians continue to publish new research and case studies on the subject.

One foundation devoted to raising awareness is The National Coalition for the Homeless,

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<sup>1</sup> Carolyn J. Tompsett, Paul A. Toro, Melissa Guzicki, Manuel Manrique, and Jigna Zatakia, “Homelessness in the United States: Assessing Changes in Prevalence and Public Opinion, 1993-2001,” *American Journal of Community Psychology* 37.1 (March 2006): 47.

<sup>2</sup> Tompsett, 50.

<sup>3</sup> Leonard C. Feldman, *Citizens Without Shelter* (Ithaca, NY: Cornell University Press, 2004), 2.

founded in 1981, which works to advocate for a homeless person's rights. Their mission attempts to change attitudes in order to prevent and end homelessness in America.<sup>4</sup> Another foundation involved in advocating for the homeless is the National Law Center on Homelessness and Poverty. The center combines research on statistics and case studies to produce an annual report spotlighting different cities' treatment of their homeless populations. This report brings a larger awareness of the legal repercussions involved with the state of homelessness. A number of academics have used this research to launch their own studies on the constitutionality of homeless crimes. Donald E. Baker wrote an article in the *University of Miami Law Review* on the unconstitutional actions taken by local law enforcements. The article breaks down the superficial reasons behind criminalizing the destitute population of society. His work, along with some other authors, set the groundwork for a new way to solve the issue of homelessness.

Using theory as a basis of understanding, Don Mitchell and Feldman offer valuable insights on the methods and reasoning behind criminalization. Both of these authors explore the issues of public space, how the homeless necessarily invade it, and how local governments react to the issue with increased legal implications. Explaining that his views have a basis in a general Marxist framework, Mitchell writes about how the homeless and marginalized are controlled by the standardized meanings of public space inherent in modern governments. He explores the relationship among the laws, public space, and rights of the homeless citizens.<sup>5</sup> Feldman additionally discusses this notion of public space and the problem with current legal systems in targeting the homeless population. He specializes in political theory and law and culture,

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<sup>4</sup> "National Coalition for the Homeless," *National Coalition for the Homeless*, accessed 29 Nov. 2011. <[http://www.nationalhomeless.org/about\\_us/index.html](http://www.nationalhomeless.org/about_us/index.html)>

<sup>5</sup> "Don Mitchell," *Maxwell School of Syracuse University*, accessed 29 Nov. 2011. <<http://www.maxwell.syr.edu/faculty.aspx?id=6442451353>>

explaining his emphasis on political exclusion through the bare life model society practices.<sup>6</sup> These two authors provide important theoretical insight to the current legal situations surrounding the homeless. Other various authors provide information on specific events and analyses of certain laws currently in effect. These two sets of approaches in addition to legal documents and newspaper articles supply a greater framework to utilize when analyzing the criminalizing standard.

In passing punitive laws against the homeless, local governments face two different schools of thought regarding which actions to take. Robert Tier, a supporter of legal actions against the homeless, believes that the homeless need to be punished for the acts they commit. He promotes the attitude that the homeless are “individuals who can be held accountable for their (freely chosen and disorderly) behaviors.”<sup>7</sup> To him, homelessness is a voluntary state, and the choices made from this way of life can and should be punished. Local governments tend to follow this direction when enforcing new and old laws against the actions of homeless individuals. The ultimate goal of this punitive approach is to transform these “rebellious outlaws” into “upstanding citizens” with the tough love mentality.<sup>8</sup> On the other spectrum, Thomas Dumm sees the world of homelessness in an entirely different manner. He believes in a kind of spiritual freedom associated with homelessness.<sup>9</sup> Laws preventing the daily necessities of using the bathroom, sleeping, etc. do not allow a person to explore the romanticized way of life. Thus, Dumm advocates against these laws and fights for letting the homeless live without punishment. Other supporters of non-punitive approaches also address the various social support methods which can alleviate homelessness in place of criminalization.

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<sup>6</sup> “Leonard Feldman,” *Hunter College*, accessed 29 Nov. 2011.  
<<http://www.hunter.cuny.edu/polsci/faculty/Feldman>>

<sup>7</sup> Feldman, 9.

<sup>8</sup> Feldman, 9.

<sup>9</sup> Feldman, 7.

For every piece of anti-homeless legislation that gets enacted following Tier's methodology, an advocacy group works to bring it to court on basis of unconstitutionality. In 1972, the Supreme Court declared that many of the old laws targeting the poor were inherently unconstitutional in the case *Papachristou v. City of Jacksonville*. The court struck down Jacksonville's traditional vagrancy ordinance on the terms that it was too vague to be implemented. The law on record read as followed:

Jacksonville, Fla., Ordinance Code § 26-57 provides that rogues, and vagabonds, or dissolute persons who go about begging, ... lewd, wanton and lascivious persons, keepers of gambling places, common railers and brawlers, persons wandering or strolling around from place to place without any lawful purpose or object, habitual loafers, disorderly persons, persons neglecting all lawful business and habitually spending their time by frequenting houses of ill fame, gaming houses, or places where alcoholic beverages are sold or served, persons able to work but habitually living upon the earnings of their wives or minor children shall be deemed vagrants and, upon conviction in the Municipal Court shall be punished as provided for Class D offenses.<sup>10</sup>

Justice William Douglas stated that the law violated the due process guaranteed to every citizen in the Bill of Rights. The ordinance criminalized an act of status not conduct, preventing people from knowing if his or her actions could be penalized by the law.<sup>11</sup> With such vague language as "lewd persons," police officers enforced the law erratically and with personal discretion, resulting in many more homeless arrests than not.<sup>12</sup> While this case served as a major success for the advocates, it eventually created the new model of criminalization. Local governments could not penalize an act of status, so the legislators had to write the laws more specifically to target solely the actions that homeless people were forced to commit. In this way, the constitutionality on the basis of vagueness could no longer be successfully challenged in court.

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<sup>10</sup> *Papachristou v. Jacksonville*, 405 U.S. 156 (1972).

<sup>11</sup> Feldman, 35.

<sup>12</sup> Robert C. McConkey III, "Camping Ordinances and the Homeless: Constitutional and Moral Issues Raised by Ordinances Prohibiting Sleeping in Public Areas," *Cumberland Law Review*, 26 Cumb. L. Rev. 633, 1996.

Local governments continued to write more clearly stated laws in order to accomplish three different goals. First, as previously discussed, the compassion fatigue of the American people sometimes forced the hand of a legislator. Either the constituents did not want to hear about a new law aiding the homeless, or they wanted the homeless to simply disappear—out of sight, out of mind. Advocates continue to struggle against the mentality of “not in my backyard.” This social philosophy demands that any help given to the homeless cannot trespass into the visible realm of the average citizen.<sup>13</sup> For example, a downtown area should not have a homeless shelter (even though it would help the most people there) because it would be too clearly seen in public view. People would actually have to encounter the homeless on a daily basis, and they did not see this as a viable option. Thus, gentrification efforts all across American cities have successfully removed the homeless from the public sphere by destroying skid rows, criminalizing actions, and zoning public space. Mayor Rudolph Giuliani conducted this process in his 1990s Clean-Up New York campaign, which then became the model for various other cities in the country.<sup>14</sup> Secondly, governments penalize homeless actions in efforts to maintain a sense of public safety. The broken window theory of criminal justice refers to the idea that a small criminal act can lead to larger acts occurring. Once a cycle of criminal activity starts, no matter how small, a city can quickly spiral into decay.<sup>15</sup> Giuliani addressed this theory as well in his clean-up efforts when he stated that the “Aggressive panhandling, the squeegee operators that would come up to your car and wash the window of your car whether you wanted it or not -- and sometimes smashed people's cars or tires or windows,... the prostitution... all these things ...

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<sup>13</sup> Donald Saelinger, “Nowhere to Go: The Impacts of City Ordinances Criminalizing Homelessness,” *Georgetown Journal on Poverty Law & Policy* 8.3 (2006): 555.

<sup>14</sup> Lisa Gray-Garcia, *Criminal of Poverty: Growing up Homeless in America* (San Francisco: City Lights Foundation, 2006), xvii.

<sup>15</sup> Saelinger, 553.

were deteriorating the city.”<sup>16</sup> His Clean-Up New York campaign thus started with the panhandling homeless in order to aesthetically better the city as a whole. This relates finally to the third reasoning behind criminalization – promoting tourism. People predicted that tourism would increase once the government removed the homeless from popular city centers. A strict crackdown on aggressive panhandling, public urination, and public sleeping would ultimately create a more appealing environment for visitors, which would eventually result in a flourishing economy. Therefore, governments ordered demolition teams to destroy skid rows in place for business high-rises and suitable housing. These three reasons all work together, allowing local governments to take a concerted action against the homeless by criminalizing their actions necessary for basic survival.

## II. Criminalization

People experiencing homelessness can get penalized in a variety of different ways, resulting in fines or even prison sentences. While homeless, a person still needs to carry out many basic routines. Actions such as using the restroom, sleeping, finding shelter, and finding food often have restrictions enforced in public areas. Furthermore, privileges citizens typically take for granted such as maintaining property and obtaining an income also can be heavily criminalized when the homeless use what they have to make things work. Many cities have developed some set system of laws to target these criminal behaviors in order to reduce their frequency. However, the criminalized acts are all necessary conducts to survive, making a reduction in frequency improbable. When a homeless person receives a fine for panhandling, their only income available, it is unlikely, if not impossible, to pay it. Thus, many people wind up in the penal system for a series of days or even years depending on the severity of the law.

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<sup>16</sup> “Rudolph Giuliani: New York’s Pillar of Strength,” *Academy of Achievement*, 17 April 2008, accessed 30 Nov. 2011. <<http://www.achievement.org/autodoc/page/giu0int-4>>

This only further commits a homeless person to the culture of poverty as he or she repeats the cycle time and time again.

The current criminalizing system ultimately sets people up for failure. Many homeless people struggle to get enough food or a place to sleep, but the police and legislation further hurt their efforts. As described in Lisa Gray-Garcia's (Tiny's) book entitled *Criminal of Poverty*, Tiny continuously fights back against the constant segregation, fines, and the legal system she repeatedly falls into. When without shelter, she and her mother are forced to sleep in their car for refuge; the cops cite them ticket after ticket for Driving While Poor violations.<sup>17</sup> Eventually they amounted to so much money that Tiny was arrested and forced to complete hundreds of community service hours. Since all of her time went to selling clothing for income, this too became an impossible task. Furthermore, Tiny explains the inadequacy of the system for families trying to survive. If a single mother finds a job but cannot afford child care and rent and food with that money, what is she to do? Most people under these circumstances admit that illegal actions may be the only way to guarantee survival.<sup>18</sup> This is what the criminalizing legal system encourages; homeless citizens only commit these poverty crimes out of necessity, but the American methodology acts not out of sympathy but out of apathy to their plight.

The laws targeting the homeless attack the basic tenets of survival. Most cities have a law against public urination to fend off those unnecessarily exposing themselves to a passerby. Typically one thinks of enforcing this law to some intoxicated individual who relieves himself behind a bar. However, the implementation of the law actually targets homeless people quite often. When a homeless person literally has no place to go, what are they expected to do? Many restaurants and businesses now require a person to be a paying customer before being allowed to

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<sup>17</sup> Gray-Garcia, 108.

<sup>18</sup> Gray-Garcia, 240.

use their facilities, successfully preventing most homeless people from utilizing them. Free public restroom availability is rapidly declining around the nation. At the World Toilet Summit in 2007, Robert Brubaker and Carol McCreary addressed this issue in an oral report. They stated that although the U.S. Occupational Safety and Health Administration (OSHA) requires sufficient availability of restrooms for the health of employees, the U.S. Department of Health and Human Services (DHHS), which is designed to protect public safety, does not recognize the public restroom deficiency as a health concern.<sup>19</sup> This allows local governments to shut down public restrooms after dusk or during a specific season. Thus, a homeless person has nowhere else to go but in the street or in the park. Depending on the law, a person can either be fined or jailed for such a crime of necessity. For example, in 2008, policemen from St. Petersburg, Florida arrested Lile, a homeless man, for urinating in public, and he had to serve five days in jail for the crime.<sup>20</sup> The San Antonio legislation regarding public urination calls for a fine of no more than \$500 to be applied to the criminal.<sup>21</sup> Certain situations also permit officers to write another ticket for public indecency involving yet another fine or jail sentence. Criminalizing such a minor act necessary for human life can result in a further spiral into homelessness by pillaging any available funds for fines or serving multiple sentences in jail making it ever more difficult to secure a steady job. While it would be inappropriate to call for an allowance to go to the bathroom in public places, cities should provide more public restrooms for use at all times. This may bring an increase in costs to the maintenance of the restrooms, but it would lessen the costs involved with incarcerating individuals on a regular basis.

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<sup>19</sup> Robert Brubaker and Carol McCreary, "Availability of Restrooms in the United States and Federal Public Health Mandates: A Call to Action," *Steel Bridge*, 2007, accessed 30 Nov. 2011, 2.  
< <http://www.steel-bridge.org/pdf/ARACalltoActionRBCM.pdf>>

<sup>20</sup> Michael van Sickler, "Judge Tosses 9 Claims in Homeless Lawsuit," *St. Petersburg Times* 12 March 2010, accessed 30 Nov. 2011. < <http://www.lexisnexis.com/hottopic/lacademic/?>>

<sup>21</sup> Justin Cook, "Down and Out in San Antonio: The Constitutionality of San Antonio's Anti-Homeless Ordinances," *The Scholar: St. Mary's Law Review on Minority Issues* 8.221, (2006).  
< <http://www.lexisnexis.com/hottopic/lacademic/?>>

Another criminalized act the homeless undoubtedly have to commit is sleeping in public places. Many cities do not have the resources or the funding to maintain enough shelters to house all of their homeless populations. The National Law Center on Homelessness and Poverty released a report in 1999 surveying 50 different U.S. cities and judging their criminal methods targeting the destitute. In these cities, between 17% and 37% of the entire city's population could not afford the rent for affordable housing.<sup>22</sup> Thus, the environment continuously forces these people to look for other means to find shelter and protection. When the center conducted this report, approximately 700,000 had to roam the streets or utilize friends and family for shelter.<sup>23</sup> Current estimates put the homeless population anywhere from 250,000 to 3 million people.<sup>24</sup> Most of the cities surveyed did not have enough emergency shelter beds and transitional housing slots combined to house every homeless person. Some cities, such as San Francisco and Kansas City, had a severe lack of available space compared to the number of homeless people estimated in the city. For example, San Francisco had anywhere between 11,000 and 16,000 homeless people in 1999; the city had supplies for 1,359 emergency shelter beds and 798 transitional housing options.<sup>25</sup> This math simply does not add up. Statistics show that up to 22 percent of the homeless population does not have an emergency shelter to go to due to lack of space or facilities.<sup>26</sup> In situations like this, many homeless people sleep in the streets only because of the lack of shelter availability.

Even if shelter space exists, many people choose not to take it because of the inadequate conditions and safety concerns. One woman in San Francisco stopped going to shelters because

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<sup>22</sup> "Out of Sight – Out of Mind?: A report on anti-homeless laws, litigation and alternatives in 50 United States Cities," *National Law Center on Homelessness & Poverty*, 1999, i.

<sup>23</sup> "Out of Sight," 1.

<sup>24</sup> Donald E. Baker, "Anti-Homeless Legislation: Unconstitutional Efforts to Punish the Homeless," *University of Miami Law Review*, 45 U. Miami L. Rev. 417, 1991.

<sup>25</sup> "Out of Sight," 4-5.

<sup>26</sup> Baker.

her clothes and shoes kept getting stolen from the other patrons.<sup>27</sup> When a homeless person has so little precious property to begin with, the constant fear of losing it while in a shelter is enough to steer people away and sleep on the streets instead. Other shelters feel more like a prison as residents are required to sign out to use the bathroom or go through multiple locked doors in order to get outside.<sup>28</sup> Many require their clients to participate in some sort of “get help” program in which they need to attend case management meetings, job training, Bible studies, church, or take regular drug tests.<sup>29</sup> These programs are designed to help the homeless become self sufficient, but it alienates non-Christian oriented homeless people at the same time. All of these issues with the American shelter system encourage some of the homeless to look to the streets first.

The consequent ban on public sleeping takes many shapes and sizes depending on the local legislation. As previously explored, many individuals of the homeless population suffer from the public sleeping laws because they have nowhere else to go at night. However, even if a homeless person resided in a shelter at night, they often had to leave the establishment during the day. This literally forces people to kill time as they wait for the shelter to reopen.<sup>30</sup> Simply sitting on the sidewalk during this twelve hour time period can result in a hefty fine. In San Antonio and Austin, rules regulate public sleeping on sidewalks and any other public area; this does not deal with setting up make shift camps, as will be discussed later, but the act of sitting or sleeping in a public area. The San Antonio ordinance again had a fee of no more than \$500 that could be administered.<sup>31</sup> Austin, on the other hand, had a flat rate of \$500 for violating the ordinance.

“Sleeping, sitting, or lying down” in a public area, which could include sidewalks, parks, and

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<sup>27</sup> Evelyn Nieves, “In Famously Tolerant City, Impatience with Homeless,” *New York Times*, 18 Jan. 2002, late ed., A14.

<sup>28</sup> Elliot Liebow, *Tell Them Who I Am: The Lives of Homeless Women* (New York: Penguin Books, 1993), 11.

<sup>29</sup> Personal experience, tour of New Creations Men’s Center, Valparaiso, Indiana, 5 Dec. 2011.

<sup>30</sup> Liebow, 30.

<sup>31</sup> Cook.

benches, was strictly prohibited.<sup>32</sup> Across the country in San Francisco, the city police took a more pointed action at evicting people from doorways. According to a *New York Times* article, the San Francisco “Department of Public Works now sends crews fanning through the streets, waking homeless people and scrubbing down their sidewalk sleeping place with disinfectant, so they have no choice but to move.”<sup>33</sup> The city worked to clean its streets of its homelessness problem, modeling their efforts after Giuliani’s work in New York City. It was also stated that in 1999, the city gave more than 42,000 citations to the homeless for breaking various laws including public urination and public sleeping or camping.<sup>34</sup> When a supervisor for the San Francisco project, Gavin Newsom, was criticized for his involvement in making San Francisco one of the meanest cities in America towards the homeless, he responded with: “It’s time for tough love, accountability, and outcomes.”<sup>35</sup> His response shows how the local governments follow Tier’s methodology of invoking the tough love mentality on the legal system in order to curb homelessness.

As a result, some homeless people will take refuge at a public library or some other sort of free public service which provides shelter and/or entertainment. In Houston, however, this simple act can again lead to discrimination in a criminalizing fashion. People in the library cannot sleep or even put their heads on the table to rest because a law actually exists prohibiting these acts.<sup>36</sup> With these various ordinances attacking the act of sleeping in a public place, whether it is on the sidewalk or in the library, the homeless population suffers at the hands of the law. They ultimately target the homeless people specifically in order to secure an aesthetic environment for the rest of the populace using the facilities. If a person appeared well put

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<sup>32</sup> “A Dream Denied: The Criminalization of Homelessness in U.S. Cities,” *National Coalition for the Homeless*, accessed 30 Nov. 2011. < <http://www.nationalhomeless.org/publications/crimreport/meanestcities.html>>

<sup>33</sup> Nieves.

<sup>34</sup> Nieves.

<sup>35</sup> Nieves.

<sup>36</sup> “A Dream Denied.”

together so that he or she did not look homeless, the police oftentimes would not enforce the law as they would when someone entered a public establishment in ragged clothing. Advocates for the homeless use this as a method to argue against ordinances supposedly criminalizing actions not statuses. In many cases the law regarding public sleeping is only enforced on people who look homeless which thus still results in criminalizing the status of a person and is inherently unconstitutional as stated by the *Papachristou* case.

As an offshoot to public sleeping, multiple laws also exist to control the increased occurrence of public camping. Similar to public sleeping legislation, many local governments prohibit people from camping in public arenas because of a violation to a designated public space. The argument used relies on the idea that public space, when taken over by public camping, cannot be used for its intended use: remaining clean and accessible to all citizens.<sup>37</sup> With the recent recession in America, more and more tent cities are sprouting up, making this issue much more visible than it has been in the past. Tent cities can include just a few people or dozens of people in the makeshift community. After Steven Brigham forced the city of Lakewood, New Jersey to settle in a public land dispute, more than 70 homeless people now have a place to gather in what they call the “Tent City.”<sup>38</sup> There is no imminent threat of penalization for the people who live there since Brigham worked with the city to provide a space for the homeless. The residents are free to retain their community safely and maintain a sense of humanity all while trying to find employment. Other people in tent cities moved their encampments to church property (with permission) in order to be protected under the Religious

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<sup>37</sup> McConkey.

<sup>38</sup> Robert Johnson, “Heartbreaking pictures from New Jersey’s Homeless ‘Tent City,’” *Business Insider*, 8 Sep. 2011. Accessed 5 Dec. 2011. <<http://www.businessinsider.com/lakewood-new-jersey-homeless-tent-city-2011-9>>

Land Use and Institutionalized Persons Act of 2000.<sup>39</sup> However, many tent cities are erected illegally and face the wrath of the local government. If a tent city develops somewhere in which the city government does not have jurisdiction, they can easily change the zoning laws of the area to ensure they do.<sup>40</sup> Governments can then use sanitation violations, municipal housing codes, zoning infractions and the previously mentioned ordinances against public urination, sleeping, and camping to penalize the inhabitants of the city. Upon arresting or fining individuals, the government oftentimes orders demolition teams to destroy the makeshift city.<sup>41</sup> Many of the anti-camping laws were created in a response to the increase of tent cities around the country.

Within the realm of housing as property, the police also destroy or “cleanup” excessive property left in public spaces by homeless people. This can include tent cities and general storage spaces frequented by the poor. Oftentimes, when a city undergoes gentrification projects, the city orders the cleanup crews to target the areas in which homeless people store their goods.<sup>42</sup> Whether under bridges or in alleyways, storing personal goods in public spaces in many cities can result in targeted discrimination. For example, in Las Vegas in 2005, transportation crews cleared an area underneath a downtown bridge where a tent city had previously been operating. In cleaning up the area, the crew threw away all possessions including blankets, tents, and personal photographs.<sup>43</sup> The law works to prevent the “maintaining of junk or storage of property” in public areas such as parks and sidewalks.<sup>44</sup> Even if a person has all of their belongings next to them in plastic bags, they can be subject for search and seizure if becoming a

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<sup>39</sup> “Homeless camps increase nationwide,” *American City & County*, Nov. 2008, Accessed 26 Oct. 2011, 18. <[www.americacityandcounty.com](http://www.americacityandcounty.com)>

<sup>40</sup> Zoe Loftus-Farren, “Tent Cities: An Interim Solution to Homelessness and Affordable Housing Shortages in the United States,” *California Law Review*, Vol. 99:1037, 1062.

<sup>41</sup> Loftus-Farren, 1062.

<sup>42</sup> “A Dream Denied: The Criminalization of Homeless in the U.S.,” *National Coalition for the Homeless and National Law Center on Homelessness & Poverty*, Jan 2006, Accessed 2 Dec. 2011, 79. <<http://www.nationalhomeless.org/publications/crimreport/report.pdf>>

<sup>43</sup> “A Dream Denied,” Jan 2006, 30.

<sup>44</sup> “A Dream Denied,” Jan 2006, 144.

nuisance to fellow passersby. The destruction of a homeless person's property works to dehumanize them further by taking away all that they have. Just because the material goods are held in a public place (since there is nowhere else to put them) does not entitle crews to throw away sentimental items. Sometimes, if lucky, a homeless person can find a shelter in which they can store some of their belongings. The clients are limited to only a locker of space to store everything. The locker is safe and secure, but it is always subject for a search by the shelter to prevent drugs or alcohol from entering the building.<sup>45</sup> In order to put all of one's possessions in a small locker, many items have to be thrown away or otherwise worn on the body. All of these attacks on a homeless person's material possessions make it ever more difficult to retain a sense of humanity in a heavily penalized world.

Local legislators continued with anti-homeless legislation when enacting panhandling restrictions. With an unemployment rate plaguing the country, many people already struggle to find a way to survive monetarily. Some people choose to take their fate into their own hands and work doing whatever they can do with whatever resources available. In New York, one could always get the windshield cleaned if stopped at the right intersection; people gathered change or a few dollars to wash someone's window as they stopped. It earned them enough money to at least get a meal. However, once citizens became perturbed by this unwanted action, Giuliani worked to rid the streets of those who should be called nothing less than perseverant day laborers.<sup>46</sup> Moreover, New York and other cities looked at invoking new panhandling legislation to prevent the homeless from interrupting a person's daily life. Many laws target aggressive panhandling specifically in order to prevent harassment of citizens.<sup>47</sup> However, some laws forbid begging entirely within certain areas, usually around the tourism hot spots, and others regulate

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<sup>45</sup> Personal experience, New Creation Men's Center.

<sup>46</sup> "Rudolph Giuliani."

<sup>47</sup> Saelinger, 561.

the act in other means. For example, San Francisco proposed ordinances to prevent begging on median strips by slapping a \$500 fine and six months imprisonment on this devious crime.<sup>48</sup> Additionally, in 1994, Eugene, Oregon and Memphis enacted legislation requiring beggars to have a license, get fingerprinted, and get photographed.<sup>49</sup> These licenses had to be carried with them at all times, making a homeless person's only income highly regulated and complicated to achieve. Furthermore, in the mid-1990s, cities implemented a law restricting where beggars could be located; these laws prevented begging around ATMs, near storefronts or banks, and by people getting in or out of a vehicle or standing in line.<sup>50</sup> These limitations around begging or working odd jobs for money serve as the government's way to take away any potential income a homeless person could earn with these methods. Again, the laws are designed to favor the normalized citizen who works and has a home to go to rather than supporting those that fall through the cracks.

By taking away the ability to panhandle, laws consequently ignite more dangerous crimes because the homeless need to find some way to earn money. If job availability remains low, some people may turn to petty theft, robberies, selling drugs, or prostitution. Any of these acts arguably are more detrimental to society than asking people for spare change. Not many researchers have conducted surveys on which jobs former panhandlers take, but a case study from Toronto, Ontario can provide scholarly inferences. Over 200 people lost their only source of income when the local government outlawed active panhandling in 2000. In 2003, two researchers found the youth that used to squeegee for an income and asked about their current employments. The results showed that many "turned to far more dangerous and socially

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<sup>48</sup> Nieves.

<sup>49</sup> Don Mitchell, "The annihilation of space by law: The roots and implications of anti-homeless laws in the United States," *Antipode*, 29.3 (1997), 307.

<sup>50</sup> Mitchell, 307.

unacceptable behavior.”<sup>51</sup> Some turned to drug trafficking or prostitution in order to get the money needed to survive. Although a small example, these results can extend to the possibilities for the U.S. homeless population who cannot beg for money anymore. The law forces those in destitute situations to look for another source of income, and oftentimes that search ends up in more illegal activity.

### III. Culminating Effect

Although advocacy groups have been able to retract some legislation against the homeless population, many of the cases brought to court do not garner sustained success. While some district courts may strike down an ordinance as unconstitutional, oftentimes a higher court will reverse the decision, making the advocacy groups’ efforts a long and strenuous road. As long as the ordinance does not make the status of homelessness a punishment explicitly, the courts often make the law legal and enforceable. By enforcing the discriminatory laws, the individuals suffering the condition of homelessness endure political exclusion, targeted violence, and wrongful prison sentences. The small gains made in the court systems are all a case by case basis since it is dependent on the city, the ordinance, and the judge and can often be refuted through citizen’s actions.

The *Pottinger* case from the early 1990s serves as an example of an early success. In response to the restrictive laws on public sleeping and camping, homeless advocates have attempted to reverse ordinances by using the Eighth Amendment to the Constitution as a constitutional argument.<sup>52</sup> *Pottinger v. City of Miami* allowed homeless people to operate daily activities in designated safe zones. By claiming that the ordinances criminalizing activities of sleeping, urinating, and eating in public areas violated a homeless person’s Eighth Amendment

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<sup>51</sup> Saelinger, 561.

<sup>52</sup> Cook.

rights against cruel and unusual punishment, the advocates convinced the courts to recognize homelessness as an involuntary status.<sup>53</sup> Since the law punished people for committing innocent acts in which they uncontrollably had to commit in public, it was deemed unconstitutional. The courts ordered the city of Miami to create safe zones so that the homeless could conduct daily activities without fear of punishments. This case set the tone for other challenges brought to the courts. As long as it could be proven that not enough shelter space existed in the city, the local governments could not criminalize homeless people for sleeping in public since they had nowhere else to go. This served as one small success among many discriminatory practices still held in the legal realm against the homeless populations. Even though *Pottinger* set the tone, different courts have come to different conclusions, depending on how the judge views the issue of homelessness. If the judge believes that the status is voluntary, he or she is typically more willing to punish the homeless for their purposeful actions rather than follow *Pottinger's* position.

Along with the Eighth Amendment, advocacy groups use a few other basic tenets of the Constitution in efforts to illegalize the criminalization; issues of freedom of speech, due process, and even the right to travel routinely make it to the courts. Laws prohibiting begging have grounding against the First Amendment right to free speech. However, many cities can still restrict the act around ATMs and banks for privacy reasons.<sup>54</sup> Additionally, advocates argue that the actions taken by the homeless are acts of necessity, and by punishing the necessary actions taken because of their status, the laws are consequently punishing status.<sup>55</sup> Furthermore, since two basic foundations of law include *actus reus* and *mens rea*, which mean voluntary acts of behavior and being aware of the crime respectively, the legal system cannot enforce these laws

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<sup>53</sup> Cook.

<sup>54</sup> Mitchell, 308.

<sup>55</sup> Baker.

since the individuals do not exhibit either of these categories.<sup>56</sup> The crimes committed are daily needs, and thus a person would not voluntarily urinate or sleep in public but are forced to do so. As Donald E. Baker suggests, criminalizing the homeless is “unjust because the actor is subjected to the stigma of criminal punishment without being morally blameworthy.”<sup>57</sup> The perpetrators do not consider living their life an automatic crime; neither should the courts since the homeless are left with no choice.

The bans on daily activities foster the degradation of the people in homelessness to a bare life status. They are subjected to participating only in activities needed to survive and are even punished for doing those if done in an inappropriate setting. By removing all other qualities of a human being’s humanity, people in homelessness continue to suffer under this bare life stigma. Feldman argues that this is a form of political exclusion since the system works to turn the homeless into outlaws of society.<sup>58</sup> From a strictly political standpoint, most states still allow homeless people to participate in the voting process while not having an official home to declare. However, the argument here is much larger than just voting rights. Feldman asserts that the anti-homeless legislation criminalizes a person’s existence, creating outlaws, who then stand on the outer rims of society.<sup>59</sup> As Judith Failer states, the homeless can “still be full citizens in the sense of nationality... [but] their different bundle of powers as citizens affects the way in which they stand before the other members of the polity.”<sup>60</sup> In essence, a person’s homelessness status excludes them from the political conversation since few, if any, politicians, leaders, or regular members of society ask for their contributions. Once this frame of mind gets established, it is extremely difficult for a homeless person to challenge any other injustices they encounter. They

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<sup>56</sup> Baker.

<sup>57</sup> Baker.

<sup>58</sup> Feldman, 101.

<sup>59</sup> Feldman, 102.

<sup>60</sup> Judith Failer as quoted in Feldman, 103.

fall through the cracks of the political and social systems to become ostracized from the “normal” spheres of civil society. The proof to this argument rests in the fact that most people ignore and turn away from the visible homeless. In a newspaper article, one homeless man stated that, "I sit here 12 hours and most people look right through me. I've been thinking that maybe I'm really invisible."<sup>61</sup> This invisibility that results from the criminalization of the homeless prevents the active participation in government from all sectors of society; the homeless are reduced to a bare life status and become excluded from civic engagements and thus a voice unheard. Only their socio-economic state accounts for their blatant elimination from the American ideal of equitable involvement.

Besides being excluded from the political sector, the homeless must constantly face threats of violence by a variety of discriminate forces. Attacks on this segment of the population have increased in the last decade. Actions range from beating a homeless man up with a bat to the extreme of pouring flammable liquid on someone and watching it ignite.<sup>62</sup> Young male teenagers are the most common perpetrators of the crime, typically looking for some kind of thrill or vengeance; victims, on the other hand, are most commonly middle aged males between ages of 40 and 60.<sup>63</sup> In 2009, over 100 violent acts were committed against the homeless, and 37 percent of them were lethal attacks. The non-lethal attacks included beatings (the majority at 67%), sexual assaults, setting fires, shootings, and police brutality.<sup>64</sup> The places that have to deal with this problem regularly are typically those that enact the most anti-homeless legislation. Although there is no correlative evidence to conclude a causal relationship exists, evidence

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<sup>61</sup> Nieves.

<sup>62</sup> “Bum Stomping,” *America Press Inc.*, 22 June 2009, Current Comment: 4.

<sup>63</sup> “Hate Crimes Against the Homeless: America’s Growing Tide of Violence,” *National Coalition for the Homeless*, Aug. 2010, accessed 7 Dec. 2011, 18.

<<http://www.nationalhomeless.org/publications/hatecrimes/hatecrimes2009.pdf>>

<sup>64</sup> “Hate Crimes and Violence Against People Experiencing Homelessness,” *National Coalition for the Homeless*, August 2010, Accessed 7 Dec 2011. <<http://www.nationalhomeless.org/factsheets/hatecrimes.html>>

shows that the areas in which governments have taken a stand against the homeless also have more citizen brutality. This vocal opposition to homelessness by the government could eventually lead to more violent acts against the marginalized. As one perpetrator expressed to a homeless woman, “I can rape you and get away with it... You’re homeless? No one cares about you.”<sup>65</sup> This clear disregard for the rights of the homeless demonstrates the need for governments to act against the violence rather than promote the discrimination of the homeless population. The constant degradation from the law allows citizens to further dehumanize the homeless, which can eventually lead to unnecessary violence.

One of the strongest arguments against the criminalization of the homeless is simply the fact that the costs needed to incarcerate individuals for these crimes increase annually while more punitive laws are being created. It costs money to hire a crew to clean up an area, approach homeless people, issue citations, bring perpetrators to jail, book them, house them, go to court, have a lawyer, and serve out a judgment. The local governments misallocate their police resources with enforcing superficial laws rather than attacking serious criminal issues. In 2000, the U.S. Department of Housing and Urban Development estimated that 49 percent of the homeless population had spent at least five days in jail.<sup>66</sup> However, when visiting a local shelter, the main social worker estimated approximately 85 percent of the clients there had a criminal record of some sort.<sup>67</sup> When a homeless person cannot pay an expensive fine, a judge is forced to either sentence jail time or release them back on the streets with community service requirements. Either way, the justice system is tied up, costing time and money from systems that could utilize

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<sup>65</sup> “Hate Crimes Against the Homeless,” 30.

<sup>66</sup> John J. Ammann, “Addressing Quality of Life Crimes in our Cities: Criminalization, Community Courts and Community Compassion,” *St. Louis University Law Journal*, 44 *St. Louis U. L.J.*, 2000, accessed 7 Dec. 2011, 813. <<http://bs6vx4ge6d.scholar.serialssolutions.com/?sid=google&auinit=JJ&aualast=Ammann&atitle=Addressing+Quality+of+Life+Crimes+in+Our+Cities:+Criminalization,+Community+Courts+and+Community+Compassion&title=Saint+Louis+University+law+journal&volume=44&date=2000&spage=811&issn=0036-3030>>

<sup>67</sup> Personal experience, New Creation Men’s Center.

extras of either. From a study in Las Vegas conducted in 2004, Donald Saelinger in the *Georgetown Journal on Poverty Law & Policy* concludes that “as funds are diverted from traditional policing to enforcing anti-homeless ordinances, the crime rate may increase.”<sup>68</sup>

Logically, if the same size police force spends time away from catching robbers, murderers and the like in order to enforce public sleeping and urination laws, more serious criminals ultimately remain uncaught. Instead of utilizing resources for this unprofitable venture, police departments and governments alike should attribute money to other resources. The money used to target the homeless could rather be used to find solutions to help alleviate the cause of the situation in the first place.

#### IV. Possible Solutions

Since the issue of homelessness is worldwide, it is impossible to come up with one solution plan to completely rid of the problem. Too many variables exist in different areas to propose one common solution for all. Even within the United States, it is difficult to offer one alternative to cover all aspects of homelessness. Rather, local governments need to enforce a variety of different measures to protect the underrepresented and discriminated citizens of society. The amount of money invested in the penalization of the homeless population can go to much better uses that will not alienate them from all aspects of society. Instead of trying to superficially clean up the problem by restricting the movements of the poor, governments need to include them in the decision making process in order to provide a solution able to remedy the various causes and symptoms of homelessness.

First, cities need to provide adequate housing options for all class levels of society. By providing homes and shelter to every citizen, the derogatory label of homelessness can basically be eliminated. In a survey of nine cities by the *National Law Center on Homelessness & Poverty*,

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<sup>68</sup> Saelinger, 563.

the jail costs involved in incarcerating all the homeless individuals for petty crimes were double, sometimes almost triple, of what it would cost to provide supportive housing.<sup>69</sup> In fact, the amount it would cost to detain an individual for one day can actually reach a 33 percent higher cost than providing that one person with housing, food, transportation, and counseling services for one day.<sup>70</sup> Governments should funnel money to the creation of new shelters or at least the revamping of the old ones. If people had a safe and clean place to turn to, less people would resort to street living. Complaints regarding current shelters revolve around patronization, lack of security, and dirtiness. With more resources allocated to various levels of housing, conditions could improve, which would ultimately encourage the homeless to reconsider living in emergency shelters until they can get back on their feet. Cities also need to implement various housing options so that the homeless have basic shelter spaces but also access to affordable and transitional housing.

In order to adequately supply housing for every citizen, cities may need to partake in other fundraising efforts. It should be a basic right for every American citizen to have some sort of housing even if the country resorts back to the Single Room Occupancy (SRO) model from years past. Camden County in New Jersey implemented a system that accounts for the lack of budgeting for the homeless. Citizens voted to create a “homelessness trust fund” in order to get every single person in some type of affordable housing. The process involves a small tax on filing county documents that accumulate to funds for purchasing properties, salaries of case managers, and rental assistance.<sup>71</sup> The county followed eleven other districts in New Jersey already implementing this plan. Success from this new tax amounted to almost \$30,000 raised

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<sup>69</sup> “A Dream Denied,” Jan 2006, 11.

<sup>70</sup> “Out of Sight,” iv.

<sup>71</sup> Matt Katz, “Camden County to create trust fund for homeless,” *The Philadelphia Inquirer*, 19 Nov. 2010, Jersey C ed., B1.

monthly in Middlesex County, showing how much a small tax can amount to in one district.<sup>72</sup> This system allows for the nullification of any public sleeping, camping, and urination laws that target the homeless since every citizen eventually will have a place to call home. While this does not need to be the widely accepted system across the board, some sort of fee or tax on the general public that goes directly to preventing homelessness would ensure the adequate housing facilities needed in this country. Without any allocation of assisted living options, the homeless face a never ending cycle. The enforcement of all of the above listed ordinances serve as “a game of musical chairs as they [the homeless] are continuously cycled from the streets to jail, and back onto the streets as criminals.”<sup>73</sup> Breaking this cycle is only possible when a roof is available for every person; otherwise, the laws targeting the homeless will only increase as the public becomes more apathetic towards their daily needs.

On a more urgent note, cities need to allocate more public restrooms in the densely populated areas downtown. Although maintenance costs of public restrooms tend not to fit into planned budgets, with the money saved from decreased incarceration rates, governments should have monetary resources to put into an upkeep fund. With the invention of automatic cleaning toilets, maintenance costs would plummet, so this would not be a permanent issue once the product becomes more available. Many public restrooms already exist, but groundskeepers lock them after a certain time at night. This practice needs to cease in order to allow everyone access at any time of day. Nature does not call only in daylight. Ultimately, every citizen should have the ability to use the bathroom whether or not they own a house. To accomplish full access to the bathroom, more public restrooms need to be opened, more need to be kept open, or businesses need to allow non-paying patrons utilize their facilities. The best way to prevent public urination

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<sup>72</sup> Katz.

<sup>73</sup> McConkey.

and defecation is to provide free public facilities. Once more restrooms are built, the ordinances on public urination will count only against those who refuse to use a public utility. Tourists, citizens, and the homeless will all benefit from the implementation of this system. It is a win-win.

On a different side of the issue, one of the most successful solutions in practice is to pair police officers with social service providers in order to help the homeless population. In Broward County, Florida, a group consisting of these two sides formed under the name of the Taskforce for Ending Homelessness, Inc. They worked together to contact homeless people and find them adequate shelter, resources, and training to end the treacherous cycle. Estimates have concluded that arrests have decreased by approximately 2,400 people each year because of the taskforce.<sup>74</sup> Coalitions can also form with a partnership with psychiatric teams in order to address the mental illness sector of the homeless. Many of those helped have found places to turn to or even live in order to get off the street.<sup>75</sup> Rather than issuing immediate citations or arrests, the police can become involved in eliminating the problem by offering help, referring the homeless to supportive services, etc. Although this process occurs sporadically now, it should become an enforced program to allow for less criminalization and more understanding. This ultimately provides the best care to those who are in need while still maintaining general public safety and even aesthetic appearances.

Furthermore, local governments should direct police officers to protect the homeless population from unnecessary discriminatory practices. As discussed above, the homeless can often be subjected to abuse from rowdy teenagers or vengeful adults. Rather than turning a blind eye or participating in these activities themselves, police officers need to advocate the basic rights of the homeless. Instead of being aware of how to help the homeless, in the past, many

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<sup>74</sup> "A Dream Denied," Jan 2006, 12.

<sup>75</sup> "A Dream Denied," Jan 2006, 12.

officers never had to go through training on where shelters were located or what services could be offered. In a report from 1993, almost half of all officers surveyed did not belong to departments requiring training.<sup>76</sup> In response to this, new legislation in certain states now requires police officers to undergo training classes on the issue of homelessness. The goal is to provide a better understanding at underlying conditions and treatments of this population of society.<sup>77</sup> Other states have begun advocating for the civil treatment of the homeless by integrating assaults targeting them into their hate crimes legislation. Maryland was the first state to implement this change, but Florida, Rhode Island, and Washington D.C. have all followed suit. This makes the crime more punishable in the eyes of the law. Special considerations for violence against the homeless exist in city ordinances in places such as Cleveland and Seattle as well.<sup>78</sup> Members of Congress also looked to include the homeless in the national hate crimes act through various bills. However, after being referred to committee, H.R. 3419 did not garnish enough support to continue the legislative process.<sup>79</sup> In other efforts to stop police brutality specifically, some private organizations have worked to teach the homeless their basic rights guaranteed by the Constitution. Some legal clinics have printed out cards to give to the homeless so they know what the police can and cannot do to them.<sup>80</sup> The small efforts by the private and public sector can ensure that the homeless understand their rights to fair and equitable treatment.

To prevent assaults in a more proactive approach, schools are even presenting information on homelessness at an early age. The current generation encounters the issue of homelessness much more than in the past but still remain the perpetrators in violent attacks.

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<sup>76</sup> “The right to remain nowhere: A report on anti-homeless laws and litigation in 16 United States cities,” *National Law Center on Homelessness and Poverty*, 1993, xi.

<sup>77</sup> “Hate Crimes Against the Homeless,” 56.

<sup>78</sup> “Hate Crimes and Violence.”

<sup>79</sup> “H.R. 3419: Hate Crimes Against the Homeless Statistics Act of 2009,” *GovTrack.us*, 2009, accessed 7 Dec. 2011. < <http://www.govtrack.us/congress/bill.xpd?bill=h111-3419>>

<sup>80</sup> Michelle Betton, “D.C.’s not so mean streets,” *Washington Post*, 12 Jan. 2006, final ed., T2.

Courses in college are taught on the subject, and the media constantly explores the subject in film like “The Pursuit of Happiness,” but the education needs to start promoting the rights of the poor. In Los Angeles, the Board of County Supervisors brought the information to the high schools by teaching an awareness and respect for their homeless population.<sup>81</sup> This at least brings the issue to the forefront, allowing students to encounter different opinions about the homeless at an earlier age in order to form more educated opinions. Hate crimes typically result from a lack of knowledge, so by instructing high school students on different causes of homelessness, the students may develop a sympathetic mentality that will show through their actions. By combining the above solutions, local governments can deal with the homeless populations with respect while still trying to alleviate the problem. Rather than discriminating and targeting the poor, actions need to be taken to solve the underlying issues.

#### V. Conclusion

Overall, the criminalization of homeless populations is an inadequate method to alleviate the social problem. Public sleeping, camping, urination, and panhandling legislation only further reduces a homeless person into the cycle of debt. Fines and prison sentences pile on top of one another, hurting both the individual and the local criminal justice system. The resources designated to penalize the innocent actions of the homeless can be better utilized in finding solutions. Furthermore, the implementation of punitive laws against the homeless tends to be unconstitutional in nature or at least discriminately practiced. The homeless ultimately lose their rights as citizens because of their status in society. The anti-homeless laws showcase a “most callous and tyrannical exercises of power in modern times by a (comparatively) rich and complacent majority against a minority of their less fortunate human beings.”<sup>82</sup> Instead of

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<sup>81</sup> “Hate Crimes Against the Homeless,” 57.

<sup>82</sup> Quote from J. Waldron in Mitchell, 311.

working together to help eliminate poverty and the unnecessary suffering of the poor, the current apathetic society works to discriminate and further impoverish the already destitute. The American legal system should not criminalize the innocent but work to defend the forgotten and the lowly in society. Rather than handcuffing citizens for living their lives in the only way they can survive, local governments need to radically shift their thinking and programs. Currently, there are too many initiatives devoted to pushing the homeless out of the cities without providing these people with any other alternatives. The pitfalls of society have landed them in this situation, and society should work together in order to bring the cycle of homelessness to an end.

While no one alternative solution will end homelessness overnight, a combination of systems and programs can work toward finding a more permanent solution. The national and state governments can create legislation to protect the homeless rather than continue to alienate them from the political world. Local governments can implement social services programs with tax money or donations in order to raise money for housing projects. More immediately, every person should have access to a public restroom. Police departments should require training on how to deal specifically with the homeless and find ways to create coalitions with social service agencies. In this fashion, police officers can offer assistance and recommendations before issuing tickets and warrants. The simple things that can be implemented can accumulate to immense changes in equitable treatment.

By transforming the current unjust system to a more sympathetic model, the homeless people are able to regain a sense of humanity that has been lost. All of the methods currently enacted to rid the poor from public spaces infringes on their rights to live and further demotes them from the acceptable realms of civil society. The constant discrimination they face prevents other members of society from regarding them with a tone of dignity and respect. Moreover, they

face political exclusion as their opinions are not often gathered when trying to figure out how solutions would benefit or hurt them. Ultimately, the anti-homeless laws “destroy whatever freedom homeless people have, as people, not just to live under conditions at least partially of their own choosing, but to live at all.”<sup>83</sup> Enforcing new protective laws, changing social services’ goals, and finding ways to supply resources to aid the homeless will give them a greater and more equitable voice in the social system.

Homelessness is a social issue, but it has been dealt with most prominently in the legal realm. It cannot be fixed with the illegalization of daily activities nor can it be remedied by relying solely on private organizations. The current system only cycles the homeless into a desperate circle of destitution by infringing upon the privileges most people take advantage of. So many alternatives exist to prevent homelessness and provide aid if necessary; these programs need to replace the punitive actions currently taking control. Punishing the innocent crimes necessary for any life is literally a crime against nature.

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<sup>83</sup> Mitchell, 312.

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