

# California's New Vagrancy Laws

## The Growing Enactment and Enforcement of Anti-Homeless Laws in the Golden State

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## Executive Summary

Vagrancy laws conjure up a distant past when authorities punished people without a home or permanent residence. Whether the objects of pity or scorn, vagrants could be cited or jailed under laws selectively enforced against anyone deemed undesirable. This era officially ended in 1972 when the U.S. Supreme Court struck down a municipal vagrancy statute as unconstitutionally vague in *Papachristou v. City of Jacksonville* because it “encourage[d] arbitrary and erratic arrests and convictions,” “ma[de] criminal activities which by modern standards [we]re normally innocent,” and placed “unfettered discretion [...] in the hands of the Jacksonville police.”

Today’s “vagrants” are homeless people, who face growing harassment and punishment for their presence in public. Due to state and federal social and economic policies, contemporary homelessness exploded in the early 1980s and worsened during the Great Recession. More than one in five homeless people in the country lives in California, and two-thirds are unsheltered. The state legislature has done little to respond to this widespread problem, forcing municipal governments to address homelessness with local resources. Cities have responded by enacting and enforcing new vagrancy laws—a wide range of municipal codes that target homeless people.

We report findings about the increasing enactment and enforcement of anti-homeless laws in California. We collected data about California municipal laws that criminalize four categories of activity associated with homeless people: (1) standing, sitting, and resting in public places; (2) sleeping, camping, and lodging in public places, including in vehicles; (3) begging and panhandling; and (4) food sharing. These laws are the most recent in a long line of similar efforts to keep or push out marginalized groups deemed undesirable by local authorities.

Our enactment research builds on studies conducted by the National Law Center on Homelessness and Poverty (“NLCHP”), which analyzed municipal anti-homeless codes in 187 cities across the United States. We analyzed a similar set of municipal codes in a sample of 58 California cities, where three-quarters of the state’s homeless people live. Our enforcement research draws on statewide arrest data aggregated by the FBI and California Department of Justice, and on detailed case studies of San Francisco, Sacramento, and San Diego.

Our key findings:

### **1. California cities have enacted a large number of anti-homeless laws.**

- The 58 cities in our study have enacted at least 500 anti-homeless laws restricting the four categories of activity noted above—nearly nine laws per city on average.
- All 58 cities have enacted at least one law restricting daytime activities like standing, sitting, or resting in public places; 57 of the 58 cities ban at least one nighttime activity like sleeping, camping, or lodging in public places, including in vehicles.

### **2. The enactment of local anti-homeless laws in California has grown rapidly.**

- The sample California cities have enacted a majority (59 percent) of the current anti-homeless laws since 1990.
- If present trends continue, these cities will collectively enact 11 new anti-homeless laws each year.

### **3. California cities have more anti-homeless laws than other U.S. cities.**

- Compared with other U.S. cities, California cities are substantially more likely to ban

various nighttime activities, including more than twice as likely to ban sleeping or lodging in vehicles.

- Although California cities are less likely than other U.S. cities to impose city-wide bans on loitering and begging, California cities are much more likely to ban these and other daytime activities in specified public places.

#### **4. Enforcement of anti-homeless laws is increasingly based on status, not behavior.**

- Enforcement (as evidenced by statewide arrests) of “vagrancy” laws has risen during the last two recessions and continues to rise in the wake of the Great Recession.
- Since 2000, statewide arrests for “vagrancy” offenses have increased by 77 percent, even as arrests for “drunkenness” and “disorderly conduct” have decreased by 16 percent and 48 percent, respectively, suggesting that homeless people are being punished for their status, not their behavior.

#### **5. California cities use a wide array of strategies to enforce anti-homeless laws.**

- *San Francisco enforces a variety of local anti-homeless codes.* From 2007 to 2013, San Francisco issued over 3,000 citations per year for violations of codes prohibiting sleeping, camping, standing, sitting, resting, and begging in public. Eighty-seven percent of these citations were issued under municipal rather than state code.
- *Sacramento increasingly enforces one municipal anti-camping code.* During the last decade, Sacramento has principally enforced a single anti-camping code against homeless people. Citations issued within city limits by County Park Rangers under this code have risen from fewer than 50 in 2010 to nearly 1,200 in 2012.
- *San Diego demonstrates the adaptable nature of local enforcement practices.* San Diego historically used a state illegal lodging code to cite homeless people. After a 2007 lawsuit restricted this practice, the city has aggressively enforced a municipal anti-camping code and a facially neutral encroachment code against homeless people.

#### **6. The enactment and enforcement of anti-homeless laws harms people and society.**

- Criminalization harms homeless people and perpetuates poverty by restricting access to the social safety net, affordable housing, and employment opportunities.
- The enactment of anti-homeless laws raises significant legal questions about the constitutional rights of homeless people.
- The enforcement of anti-homeless laws is expensive, directing limited resources away from efforts that would effectively and humanely reduce homelessness.

While detailed policy prescriptions are beyond the scope of this research report, California policymakers should take the following general steps:

- 1. Seek a state-level solution** to end the locally driven, race-to-the-bottom criminalization of homelessness.
- 2. Improve data collection and reporting** to create accountability and measure progress towards reducing the criminalization of homelessness.
- 3. Align stakeholder incentives** so that relevant actors are motivated to work together to house rather than criminalize homeless people.

## Introduction

Homelessness is a persistent crisis in California. Although the problem exists statewide—and is exacerbated by deep cuts to federal and state funding for affordable housing and by rising inequality—it is mostly managed at the local level, where cities are increasingly punishing homeless people for their presence in public. In this report, we share findings from original research about the enactment and enforcement of municipal codes that criminalize homelessness in California.

In Section I, we provide an overview of California's homelessness crisis. We describe who is homeless and highlight factors contributing to homelessness in the state. We place recent municipal anti-homeless legislation in a broader context of legal restrictions designed to push away or remove “undesirable” people from public.

In Section II, we examine the enactment of municipal anti-homeless laws in California. We analyze anti-homeless laws in a sample of 58 local jurisdictions, focusing on municipal code sections prohibiting four types of life-sustaining activities that homeless people have no choice but to undertake in public: (1) standing, sitting, and resting in public spaces, including loitering and “vagrancy” (daytime restrictions); (2) sleeping, camping, and lodging in public places, including in vehicles (nighttime restrictions); (3) begging and panhandling; and (4) food sharing.<sup>1</sup> This section also tracks the growth of such laws over time and compares trends in California's legal restrictions with the rest of the country.

In Section III, we describe the enforcement of local anti-homeless laws in California. We analyze both state-level data and three city-specific case studies to illustrate the diverse ways in which police departments rely on municipal anti-homeless codes, related state laws, and informal enforcement techniques to criminalize homelessness.

We conclude with a discussion of the consequences of current enactment and enforcement trends of anti-homeless measures, and we offer general policy recommendations to end the current system of criminalizing homelessness in California.

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## I. Homelessness in California

In this Section, we describe homelessness, including the demographics of homeless people nationally and in California. We examine social and economic policies that contribute to homelessness in the state. And we place cities' current responses to homelessness in the context of past policies designed to keep or push out other groups deemed “undesirable” by local authorities.

### A. Who Is Homeless?

According to an annual point-in-time survey conducted by the U.S. Department of Housing and Urban Development (“HUD”), over 610,000 people in the United States were homeless on a single night in 2013.<sup>2</sup> However, HUD employs a narrow definition of homelessness,<sup>3</sup> and point-in-time methods systematically undercount homeless people.<sup>4</sup> Conducted in January, HUD counts overlook people who are homeless for only part of the year. The figures fail to account for people who do not have a home but who live “doubled up” with others in homes that cannot adequately accommodate the number of people living there.<sup>5</sup> HUD's count also excludes people

temporarily living in hospitals, mental health or substance abuse centers, or jails with nowhere to go after release.<sup>6</sup>

In comparison, the National Center on Family Homelessness used data from the 2013 Census and the Department of Education to calculate that 2.5 million children experienced homelessness in the United States during 2013.<sup>7</sup> This figure is more than four times larger than the HUD count, and it does not include homeless adults. Extrapolating from this estimate of homeless children suggests that millions of U.S. adults experience homelessness annually.

HUD's estimates indicate that Americans have a one in 194 chance of becoming homeless.<sup>8</sup> But these odds increase for members of certain subgroups of the population. For example, people living at or below the poverty line have a one in 29 chance of becoming homeless.<sup>9</sup> One in 13 people recently released from prison or jail will become homeless within a year.<sup>10</sup> Veterans have a staggering one in 10 chance of becoming homeless.<sup>11</sup> People with mental illness, people with physical disabilities, and domestic violence survivors similarly face economic and social barriers that put them at greater risk for becoming homeless.<sup>12</sup> Families and children are also overrepresented among homeless people. Nationally, one in every 30 children experienced homelessness in 2013.<sup>13</sup> Finally, homelessness and lack of affordable housing have a disparate impact on people of color.<sup>14</sup> In 2010, black families stayed in homeless shelters at a rate seven times higher than white families.<sup>15</sup>

California has a disproportionate number of homeless people: with 12 percent of the U.S. population, the state is "home" to more than 22 percent of the nation's homeless people.<sup>16</sup> In the January 2013 point-in-time count, HUD identified almost 137,000 homeless people in California.<sup>17</sup> Across the country in 2013, most homeless people lived in emergency shelters or transitional housing programs; however, in California, two-thirds of homeless people are unsheltered.<sup>18</sup> Between 2009 and 2011, homelessness declined by one percent nationally, but it

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increased in California by two percent;<sup>19</sup> between 2012 and 2013, homelessness declined by nearly four percent nationally but increased in California by almost five percent.<sup>20</sup>

Additionally, one fifth of the nation's homeless children—over half a million—resided in California in 2013.<sup>21</sup> The number of homeless children in the state increased from 438,000 in 2010-2011 to almost 527,000 in 2012-2013—an increase of 20 percent.<sup>22</sup> California's efforts to reverse this trend have been largely unsuccessful. In its 2014 report card on homelessness, the National Center on Family Homelessness ranked California as the third-worst state (48th out of 50) based on its large population of children without homes, poor scores for child well-being, a high risk of child homelessness, and poor state policy and planning efforts.<sup>23</sup> Even with an imperfect estimate of the total number of homeless people, homeless counts strongly suggest that homelessness is a persistent crisis in California.

## **B. Factors Contributing to Homelessness**

Contemporary homelessness began in the early 1980s. Shifts in federal economic and social policy contributed to a national homelessness crisis. Homelessness in California is particularly acute because of the state's lack of affordable housing.

Changes in national social and economic policy were major contributing factors to

homelessness across the nation. During the late 1970s and early 1980s, shifts in federal budget priorities resulted in dramatic cuts to affordable housing and other programs designed to serve low-income people. HUD's low- to moderate-income housing budget authority fell by 77 percent between 1978 and 1983.<sup>24</sup> Social policies contributing to the rise of homelessness included the deinstitutionalization of the mentally ill during the mid-1980s.<sup>25</sup>

Economic and social policies continue to contribute to homelessness today. The federal Budget Control Act of 2011 initiated automatic federal spending cuts of \$85 billion (commonly referred to as "sequestration"). These cuts, which went into effect in March 2013, adversely impacted homeless services and affordable housing programs.<sup>26</sup> HUD's Continuum of Care programs providing homeless assistance lost funding to help people find housing.<sup>27</sup> The Center on Budget and Policy Priorities estimated that between 125,000 and 185,000 low-income families would lose housing assistance nationally by the end of 2014 as a result of these cuts.<sup>28</sup> As of July 2014, sequestration had cost California's low-income families—and the private landlords who rent to them—almost 15,000 housing vouchers.<sup>29</sup>

California's lack of affordable rental housing continues to fuel homelessness. Increasing disparities between housing costs and incomes correlate with increasing incidences of homelessness,<sup>30</sup> and California boasts some of the most expensive rental real estate in the country.<sup>31</sup> Rents have risen in metropolitan areas with higher foreclosure rates since 2006, making it even harder for low-wage workers to find affordable rental units.<sup>32</sup> Consequently, the state has one of the nation's highest rates of "poor renters," defined as people who spend at least 50 percent of their monthly income on housing.<sup>33</sup> And whereas a higher vacancy rate—defined as a greater "proportion of the rental inventory which is vacant for rent"<sup>34</sup>—is associated with less homelessness,<sup>35</sup> vacancy rates in California cities are extremely low, currently between two and four percent statewide.<sup>36</sup>

**[T]he state has one of the nation's highest rates of "poor renters," defined as people who spend at least 50 percent of their monthly income on housing.**

As a result of the trends discussed above, homeless people face more challenges finding housing in California than elsewhere. This includes not only rental housing, but also emergency or transitional housing. Whereas most homeless people across the country lived in emergency shelters or transitional housing programs in 2013, most homeless people in California were unsheltered.<sup>37</sup> In Los Angeles alone, only 22 percent of homeless people had a shelter bed in 2013, meaning that more than three-fourths of homeless people were living outside full-time.<sup>38</sup> California's high housing costs and shortage of shelters leave many homeless people with no choice but to rest and sleep in public.

### C. Legal Response to Homelessness from a Historical Perspective

While state and federal policy choices have fueled homelessness during the last few decades, municipal governments have struggled to address the problem. In lieu of making investments in health and human services or affordable housing development, many local authorities have tried to push homeless people away. In what can best be described as a race to the bottom, municipal governments have increasingly begun enacting and enforcing anti-homeless laws during the last three decades. These new vagrancy laws echo some of California's most lamentable approaches to criminalizing people whom society deem "undesirable."



### 1. Past Legal Responses to “Undesirable” Groups

The practice of controlling and regulating marginalized groups predates the founding of the republic. American colonists modeled early vagrancy laws on the English Poor Laws and punished those who were “vaguely undesirable” or perceived as possible criminals.<sup>39</sup> Early colonies crafted “warning out” laws that enabled cities to forcibly expel unwanted individuals.<sup>40</sup> These vagrancy laws served as the foundation for subsequent laws designed to remove undesirable people from public spaces.

U.S. cities also have a long history of driving racial minorities from public spaces.<sup>41</sup> Beginning in the late 1800s, cities in the South created “sundown towns,” which banned African Americans from remaining in town past sunset. Undesirable people who entered a sundown town after dark were subjected to a range of punishments, from harassment to lynching.<sup>42</sup> Other cities around the country, including in California, became sundown towns and excluded Native Americans, Mexican Americans, or Chinese Americans in an effort to create a homogenous, white citizenry.<sup>43</sup> Some sundown towns remained in effect until they were successfully challenged during the Civil Rights and school desegregation movements in the 1960s.<sup>44</sup>

After the Dust Bowl and Great Depression decimated the Great Plains in the 1930s, 200,000 people migrated to California to find work.<sup>45</sup> These workers were presumed (incorrectly) to hail from Oklahoma, so were nicknamed “Okies.” In response to this influx, California passed an “anti-Okie” law, which made it a misdemeanor to “bring or assist in bringing” extremely poor people into the state.<sup>46</sup> In a unanimous decision, the United States Supreme Court struck down this California law in 1941.<sup>47</sup>

Blatantly discriminatory laws have also targeted undesirable groups other than racial and regional minorities. Beginning in the 19<sup>th</sup> century, cities and states introduced “ugly laws,” banning people who exposed “disease, maiming, deformity, or mutilation.”<sup>48</sup> The first of these laws—perhaps better described as “unsightly beggar ordinance[s],” since they were originally introduced to prohibit begging—was adopted in San Francisco in 1867.<sup>49</sup> Many of these laws were not repealed until the 1970s.<sup>50</sup>

### 2. Present Legal Response to Homelessness

In California today, so-called “quality-of-life” laws aim to keep homeless people out of public spaces, but do nothing to reduce homelessness or help homeless people.<sup>51</sup> Following the history of sundown town, anti-Okie, and ugly laws, “quality-of-life” laws are a modern-day example of local efforts to expel, punish, and otherwise discourage the presence of people deemed undesirable—in this case, homeless people. “Quality-of-life” is a misnomer, because there is no evidence that such laws improve the quality of life for anyone, and certainly not for homeless people.<sup>52</sup> In this report, we refer to “quality-of-life” laws as “anti-homeless” laws to better capture the intended targets and disproportionate impact of local codes that are used to criminalize homeless people and remove them from public view.<sup>53</sup>

Several federal court cases have shaped the development of modern-day anti-homeless laws in California. In 1972, the U.S. Supreme Court struck down a Jacksonville, Florida vagrancy ordinance.<sup>54</sup> A unanimous court in *Papachristou v. City of Jacksonville* held that the ordinance was unconstitutionally vague: first, it failed to give a person of ordinary intelligence fair notice that “vagrancy” is forbidden; and second, it “encourage[d] arbitrary and erratic arrests and convictions.”<sup>55</sup> The Court also worried that law enforcement officials could use the law against

undesired groups as a “convenient tool for ‘harsh and discriminatory enforcement.’”<sup>56</sup>

In response to the rise in homelessness in the 1980s—and the constitutional limits imposed on broad vagrancy laws by *Papachristou*—cities began enacting more narrowly tailored anti-homeless laws. The U.S. Court of Appeals for the Ninth Circuit upheld a Seattle law that prohibited people from sitting or lying down on a public sidewalk in designated commercial zones between the hours of 7:00 a.m. and 9:00 p.m.<sup>57</sup> The Ninth Circuit subsequently upheld a similar anti-homeless law in Arizona that prohibited activities in certain areas during specified hours.<sup>58</sup>

With federal courts’ newfound tolerance of some municipal anti-homeless ordinances, California cities have enacted hundreds of such laws in the last few decades. In Section II, we describe the growing enactment of municipal anti-homeless laws in California. In Section III, we explore the related but distinct question of how cities enforce anti-homeless laws in practice.

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## II. The Enactment of Anti-Homeless Laws in California

As described above, homelessness is a persistent problem in California. California cities have responded to this problem by enacting municipal codes that criminalize activities associated with homelessness. In this Section, we present key findings about the prevalence and proliferation of local anti-homeless laws in California. We also discuss how California cities compare to their national counterparts. In sum, California cities increasingly criminalize the basic survival needs of homeless people for things like sleeping, sitting, and sharing food. Cities have enacted the majority of anti-homeless laws in the last three decades, and in most cases at a much higher rate than cities in other states.

While we focus here on the enactment of local codes, it is important to note that cities also use state codes to criminalize homelessness in California. For example, California Penal Code 647(e) criminalizes lodging in “any building, structure, vehicle, or place, whether public or private, without permission.”<sup>59</sup> Violation of Penal Code 647(e) constitutes disorderly conduct, which is a misdemeanor.<sup>60</sup> And while anti-homeless laws are a key tool for criminalizing homelessness, cities also selectively enforce otherwise facially neutral laws against homeless people and use less formal means, including confiscating property and moving people along through verbal warnings and other forms of harassment. We discuss our enforcement findings in Section III.

Our analysis in this Section expands on a study of municipal anti-homeless codes in the United States conducted by the National Law Center on Homelessness and Poverty (“NLCHP”).<sup>61</sup> For comparison purposes, we researched four categories of anti-homeless laws included in the NLCHP study:

- (1) standing, sitting, and resting in public places (daytime activities);
- (2) sleeping, camping, and lodging in public places, including in vehicles (nighttime activities);
- (3) begging and panhandling; and
- (4) food sharing with homeless people.

We researched local laws under these categories in 58 California cities, including detailed inspection of electronically published municipal codes.<sup>62</sup> The sample was not randomly selected, but more than three-quarters of California's 2013 homeless population reside in the 58 cities.<sup>63</sup> The sample includes 42 of the most populous 58 cities in the state, including the 12 largest; the remaining 16 cities range in population from 3,068 (Nevada City) to 116,768 (Berkeley). We included several of these cities because they have a significant homeless population. We selected other cities because they have at least one member organization affiliated with the Western Regional Advocacy Project ("WRAP"), a regional coalition of antipoverty and homeless advocacy groups.<sup>64</sup>

Tracking the enactment of municipal anti-homeless codes is subject to a number of limitations. California municipal codes are not maintained in a uniform place or manner. Among other inconsistencies, cities house similar code sections under different sections and titles. Importantly for understanding trends, some cities do not provide the date of enactment for relevant sections of their municipal code. Other cities list certain sections as having a prior code, which may or may not provide information as to when the code section was passed. However, we were able to obtain sufficient details from local codes to give us confidence about the overall validity and reliability of our findings.

#### **A. California Cities Have Enacted a Large Number of Anti-Homeless Laws**

Anti-homeless laws are common in a cross-section of California cities today. In the 58 cities studied, we found 500 laws restricting and criminalizing the four categories of activity listed above and associated with homelessness. This represents an average of nearly nine laws per city. Because some laws prohibit multiple types of activity, these 500 laws impose 581 separate restrictions on activities across the four categories.<sup>65</sup> In each of the 58 cities, homeless people—or people who appear homeless or are otherwise deemed undesirable by local authorities—can be cited and arrested under municipal laws for their presence in public.

Enforcement agencies can use these four categories of laws to restrict the movement of people who look or appear homeless 24 hours a day. A majority of the restrictions focus on controlling what homeless people can do during the day and in certain public spaces. Restrictions on daytime activities such as standing, sitting, and resting in public places are most common in the codes analyzed, representing more than one-third of all restrictions (39 percent). Together with restrictions on begging, panhandling, and food sharing, these bans on daytime activities represent more than two-thirds (71 percent) of all anti-homeless laws.

**All 58 cities have at least one municipal code restricting daytime activities like standing, sitting, and resting. Ninety percent of the jurisdictions (53 of 58 cities) prohibit some form of begging or panhandling, and over 20 percent of cities restrict food sharing.**

All 58 cities have at least one municipal code restricting daytime activities like standing, sitting, and resting. Ninety percent of the jurisdictions (53 of 58 cities) prohibit some form of begging or panhandling, and over 20 percent of cities restrict food sharing.<sup>66</sup> These restrictions limit homeless people's ability to engage in daily, life-sustaining activities.

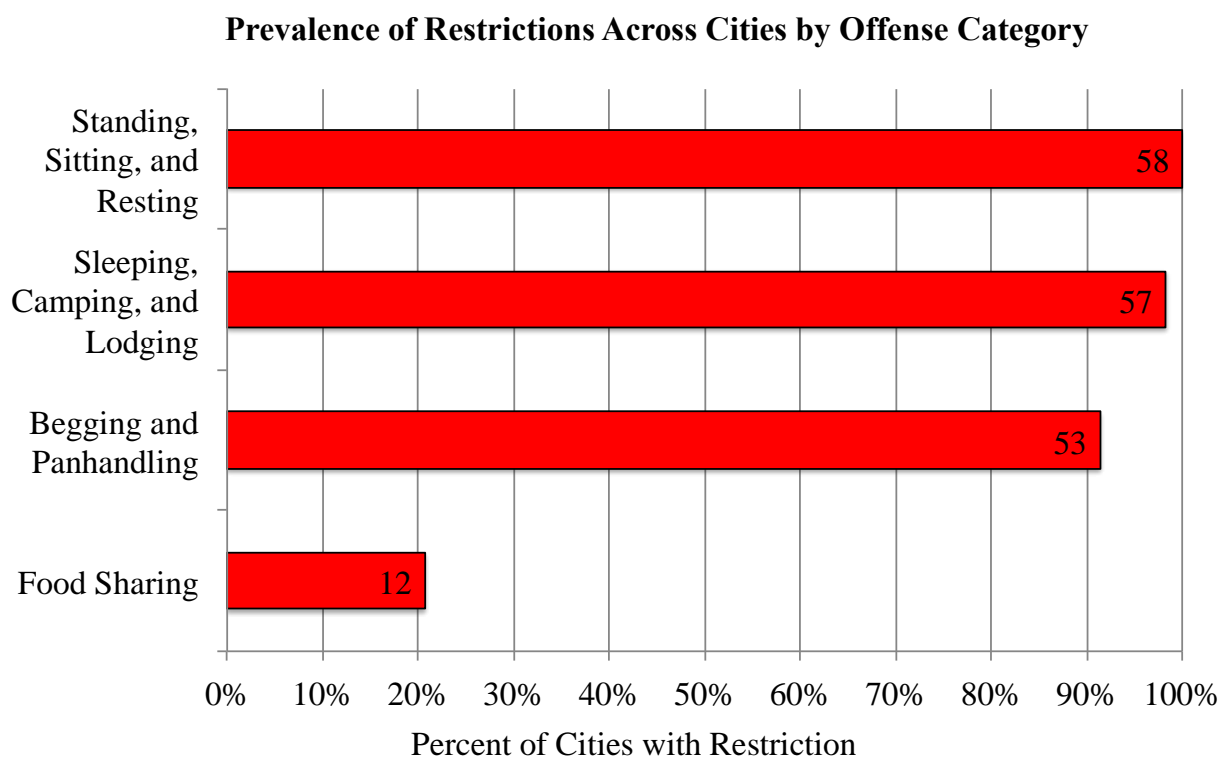
Other laws criminalize people's behavior when they rest, usually at night. Restrictions on

nighttime activities like sleeping, camping, and lodging in public places, including in vehicles, constitute almost one-third (29 percent) of all prohibitions. These nighttime restrictions deprive people of the right to rest in public places, but also leave them vulnerable to citation by law enforcement agencies at all hours of the day.

**Fifty-seven of 58 cities ban at least one nighttime activity such as sleeping, camping, and lodging in vehicles.**

Fifty-seven of 58 cities ban at least one nighttime activity such as sleeping, camping, and lodging in vehicles.<sup>67</sup> These laws deprive people of the right to rest in a public place, protect themselves from the elements, or sleep in a legally parked car without legal consequences.

Figure 1 summarizes the prevalence of anti-homeless laws by category in California cities.

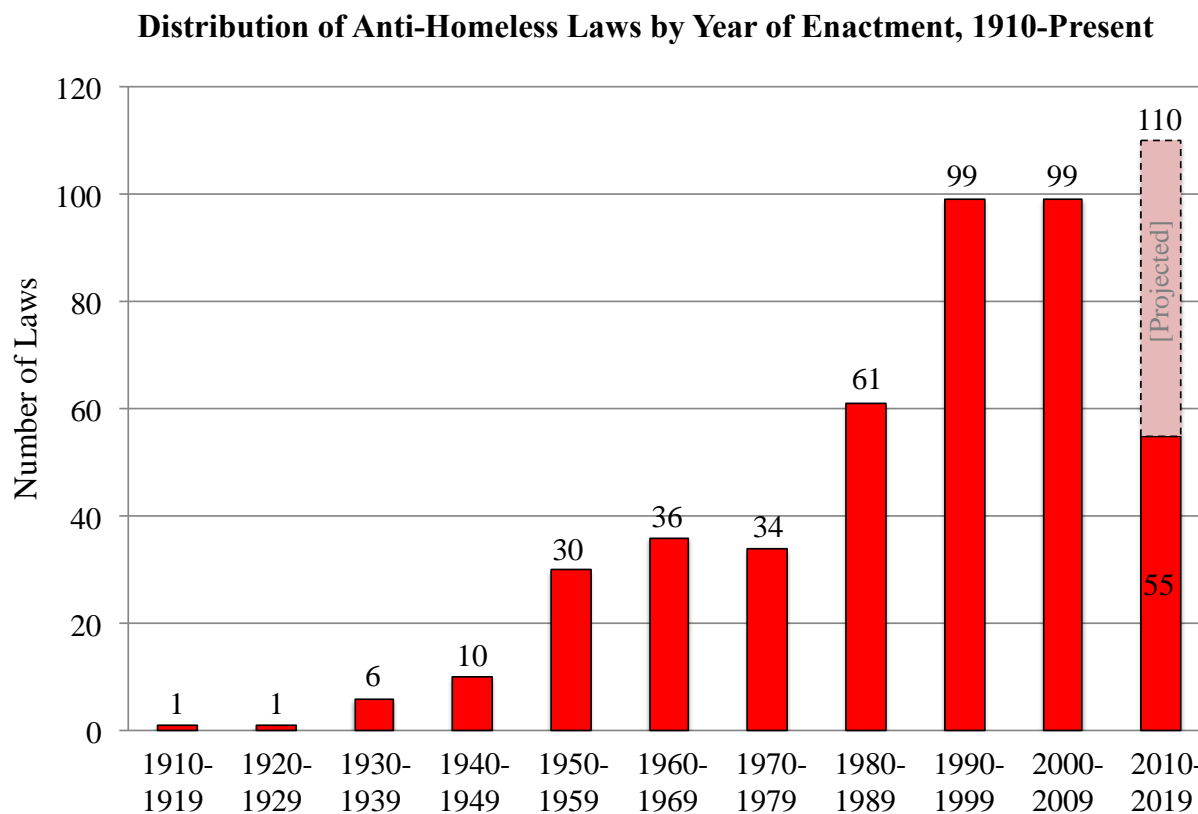


**Figure 1**

**B. Municipal Anti-Homeless Laws Have Grown Rapidly in Recent Decades**

As noted above, California’s cities have enacted a high number of anti-homeless laws. By analyzing the date of enactment, we can track the growth of anti-homeless codes over time. Because not all municipal codes note the enactment dates of each section, we were unable to include all of the anti-homeless laws in our analysis. However, we did obtain reliable enactment dates for 432 of the 500 anti-homeless laws (86 percent) identified above.<sup>68</sup>

Figure 2 charts California’s anti-homeless laws by decade of enactment from 1910 through October 2014.



**Figure 2<sup>69</sup>**

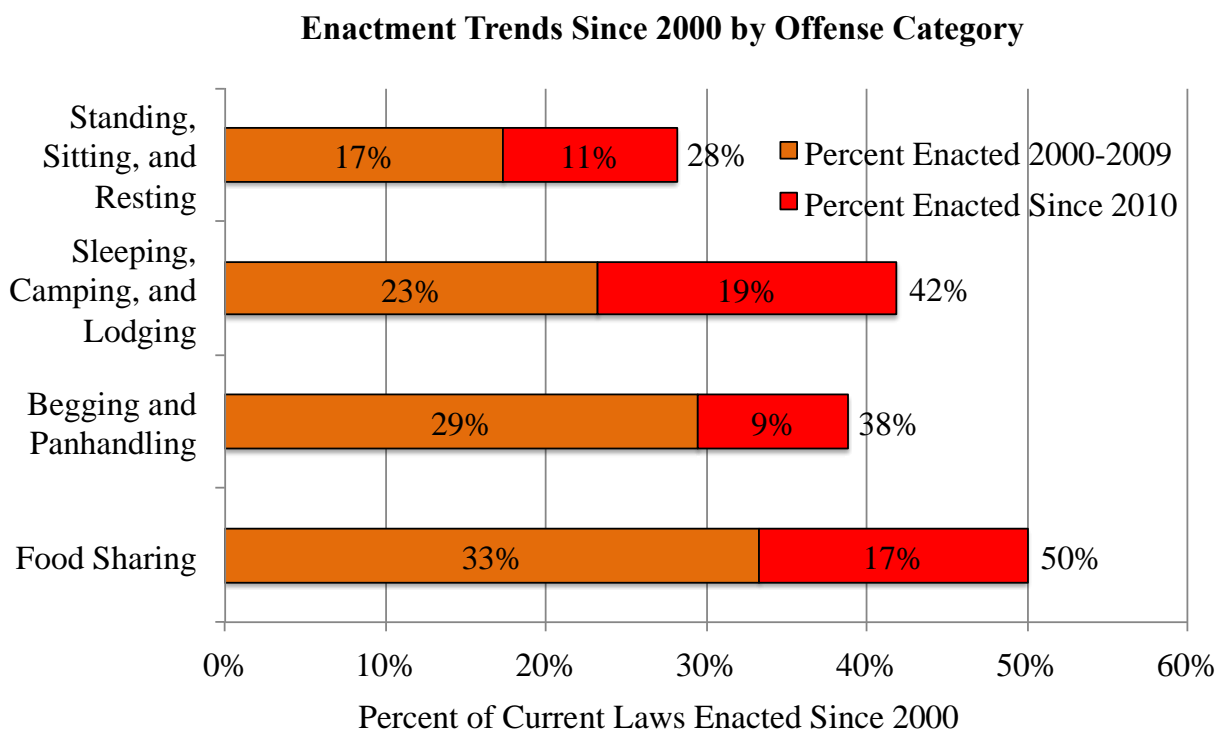
The first significant growth in municipal anti-homeless laws occurred after California's anti-Okie law was struck down by the U.S. Supreme Court in 1941.<sup>70</sup> The second and more dramatic wave of local anti-homeless laws appears after the onset of contemporary homelessness in the 1980s and a decade after the U.S. Supreme Court struck down a municipal vagrancy ordinance on the grounds that it was unconstitutionally vague.<sup>71</sup> In fact, 59 percent of current restrictions on homeless activity have been enacted since 1990, and nearly half were enacted in two decades of peak legislative activity between 1990 and 2009. The increased pace of enacting local anti-homeless legislation shows no signs of slowing down. Fifty-five new anti-homeless laws have been enacted since 2010; if current trends continue, California cities will add 110 new anti-homeless codes from 2010 to 2019.

**The second and more dramatic wave of local anti-homeless laws appears after the onset of contemporary homelessness in the 1980s and a decade after the U.S. Supreme Court struck down a municipal vagrancy law on the grounds that it was unconstitutionally vague.**

Since 2000, cities have enacted an especially high proportion of anti-homeless laws in two categories: (1) sleeping, camping, and lodging, and (2) food sharing with homeless people. One reason for the relative growth in these two categories is that restrictions on standing, sitting, and resting are older on average than other types of restrictions. While 47 laws in this category have been passed since 2000, they represent only 28 percent of the total number of such restrictions.

In contrast, 54 new laws restricting sleeping, camping, and lodging in public places have been passed since 2000, representing 42 percent of all such restrictions currently in cities’ municipal codes. Laws prohibiting food sharing with homeless people represent a small but rapidly growing category of anti-homeless laws.<sup>72</sup> Only 12 cities in our sample (20 percent) currently restrict food sharing, but half of them have passed the restrictions since 2000.

The following chart highlights the percentage of laws by major offense category passed since 2000 and 2010.



**Figure 3**

**C. California Cities Have More Anti-Homeless Laws than Cities in Other States**

As noted above, California cities have a lot of anti-homeless laws, and the number has grown considerably in recent decades. The NLCHP study reported the percentage of anti-homeless laws by category in 187 U.S. cities.<sup>73</sup> Since we used the same categories in our study, we can remove the California cities from the NLCHP dataset and compare the percentage of our California dataset with the remaining 166 U.S. cities (the NLCHP study included 21 cities in our sample). In Figure 4, we compare the prevalence of anti-homeless laws by category (and sub-category) in California and nationally. We also calculate the absolute and relative percentage differences between California and other U.S. cities—that is, we show how much more or less likely California cities are to restrict each behavior than cities elsewhere in the country.

## Prevalence of Anti-Homeless Laws: California Cities vs. 166 U.S. Cities

Offense Category	Offense Type	U.S. Cities with Restriction	CA Cities with Restriction	Absolute Difference, CA vs. U.S.	Relative Difference, CA vs. U.S.
Standing, Sitting, and Resting in Public Places	Loitering in public city-wide	31%	21%	-10%	<b>-32%</b>
	Loitering in particular public places	48%	60%	+12%	<b>+25%</b>
	Sitting/lying in particular public places	44%	55%	+11%	<b>+25%</b>
Sleeping, Camping, and Lodging in Public Places, Including in Vehicles	Sleeping in public city-wide	16%	19%	+3%	<b>+19%</b>
	Sleeping in particular public places	25%	26%	+1%	<b>+4%</b>
	Camping in public city-wide	30%	55%	+25%	<b>+83%</b>
	Camping in particular public places	46%	69%	+23%	<b>+50%</b>
	Sleeping or lodging in vehicles	33%	74%	+41%	<b>+124%</b>
Begging and Panhandling	Begging in public city-wide	24%	14%	-10%	<b>-42%</b>
	Begging in particular public places	58%	71%	+13%	<b>+22%</b>
Food Sharing	Sharing food with homeless people	8%	12%	+4%	<b>+50%</b>

Figure 4

Compared with other U.S. cities, California cities have more anti-homeless laws restricting many important types of activity. While cities in California are much less likely to impose city-wide bans on loitering and begging, they are over 20 percent more likely than cities in other states to ban these activities in particular places. Further, cities in California are substantially more likely than those in other states to restrict camping in public and sleeping or lodging in

vehicles. The discrepancy between California and the rest of the nation is most pronounced for this last type of activity. While only 33 percent of non-California cities studied by NLCHP restrict sleeping or lodging in

**Compared with the rest of the United States, California cities place substantially more legal burdens on homeless people who desire to rest in public; rest in legally parked vehicles; and sit, stand, beg, or eat in particular city locations.**

vehicles, 74 percent of California cities do so. Finally, while bans on food sharing are relatively less common than other types of restrictions, the California cities we studied are 50 percent more likely than cities in other states to criminalize this practice. Compared with the rest of the United States, California cities place substantially more legal burdens on homeless people who desire to rest in public; rest in legally parked vehicles; and sit, stand, beg, or eat in particular city locations.<sup>74</sup>

#### **D. Conclusion**

California cities have enacted a high number of anti-homeless laws. The average city studied has nearly nine laws criminalizing activities that people without homes must undertake in public. All California cities sampled have at least one restriction on daytime activities such as sitting in public, begging and panhandling, or sharing food. In addition, all but one city in the sample places restrictions on homeless people's right to rest at night.

Most of the current municipal anti-homeless laws were enacted during the last 25 years. This proliferation of laws shows no signs of abating. If current trends continue, California cities will add dozens more anti-homeless laws by the end of the decade. Importantly, California cities are substantially more restrictive than the national average in terms of criminalizing sleeping, resting, or lodging in legally parked vehicles.

The existence of municipal codes is only one aspect of the criminalization of homelessness in California. A key related issue is the enforcement of these and other laws against homeless people, which we discuss next.

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### **III. The Enforcement of Anti-Homeless Laws in California**

Laws on the books differ from laws in action. Focusing on the enactment of anti-homeless laws alone cannot provide a full picture of the criminalization of homelessness in California. In this Section, we report findings on the enforcement of anti-homeless laws by police departments and related agencies. Where data are available, we report enforcement trends over time.

Our analysis includes two components. First, with data from several sources, we examine statewide trends in enforcement of anti-homeless laws. Second, we present a series of city-specific case studies to probe deeper into the methods and rationale of local enforcement practices against homeless people.

In sum, state-level indicators in recent decades show that cities increasingly enforce laws prohibiting homeless people's presence in public places in the wake of economic downturns. Enforcement of general anti-homeless laws has grown even as enforcement of laws against specific behaviors like public intoxication and disorderly conduct has declined. And our city case



studies reveal that local anti-homeless laws are just one component of a larger set of tools—including state codes and selectively enforced “neutral” laws—that jurisdictions use to criminalize homelessness.

Collecting data on the enforcement of anti-homeless laws is subject to a number of limitations. Enforcement practices are not documented uniformly across California cities, and agencies are not required to make relevant statistics publicly available. Further, no city contacted for the purposes of this report tracks the housing status of people who have been cited and jailed as a result of enforcing local laws. To overcome these limitations, our research involved both quantitative analysis of enforcement data and qualitative interviews with key informants such as police officers and public defenders. In many cases, subject matter experts and key informants provided the context necessary to piece together data into coherent enforcement narratives.

### A. Statewide Trends

In California, we identified two sources of information to track statewide patterns of enforcement against homeless people. First, individual police agencies report annual arrest statistics to the Federal Bureau of Investigations’ Uniform Crime Reporting (“UCR”) Program.<sup>75</sup> Among the numbers reported by each agency is a count of arrests for “vagrancy.” “Vagrancy” is a category of offenses aggregated for reporting purposes, and is defined as “the violation of a court order, regulation, ordinance, or law requiring the withdrawal of persons from the streets or other specified areas; prohibiting persons from remaining in an area or place in an idle or aimless manner; or prohibiting persons from going from place to place without visible means of support.”<sup>76</sup>

Second, nearly all police agencies report yearly arrest statistics to the California Department of Justice’s Office of the Attorney General (“OAG”), including total arrests for “disorderly conduct.”<sup>77</sup> As defined by the OAG for reporting purposes, “disorderly conduct” does not refer to behaviors that constitute a public nuisance. Rather, the OAG uses “disorderly conduct” to represent a category of activities that includes lodging on public or private property, loitering, and begging.<sup>78</sup> The UCR and OAG datasets track very similar enforcement activities: in years for which both sets of data are available, the UCR “vagrancy” and the OAG “disorderly conduct” arrest statistics are nearly identical.<sup>79</sup>

The UCR and OAG arrest counts are imperfect indicators of all city-level enforcement patterns for several reasons. First, UCR and OAG include arrests for violations of the California Penal Code, but they exclude arrests under city codes. Second, arrests are merely the tip of the enforcement iceberg, since people may be cited but not arrested for violation of these state codes. And third, due to variability in data tracking and reporting methods, some cities include citation statistics as part of arrest counts, which are then aggregated at the statewide level.<sup>80</sup> Nevertheless, these datasets have been compiled using a consistent methodology over many years and provide some insight into statewide enforcement trends.<sup>81</sup>

The following graph shows vagrancy arrests reported through the UCR from 1994 to 2013.<sup>82</sup> Two economic indicators, the yearly California unemployment rate and the dates of national recessions, are also shown for reference.<sup>83</sup>

Vagrancy Arrests and California Economy, 1994-2013

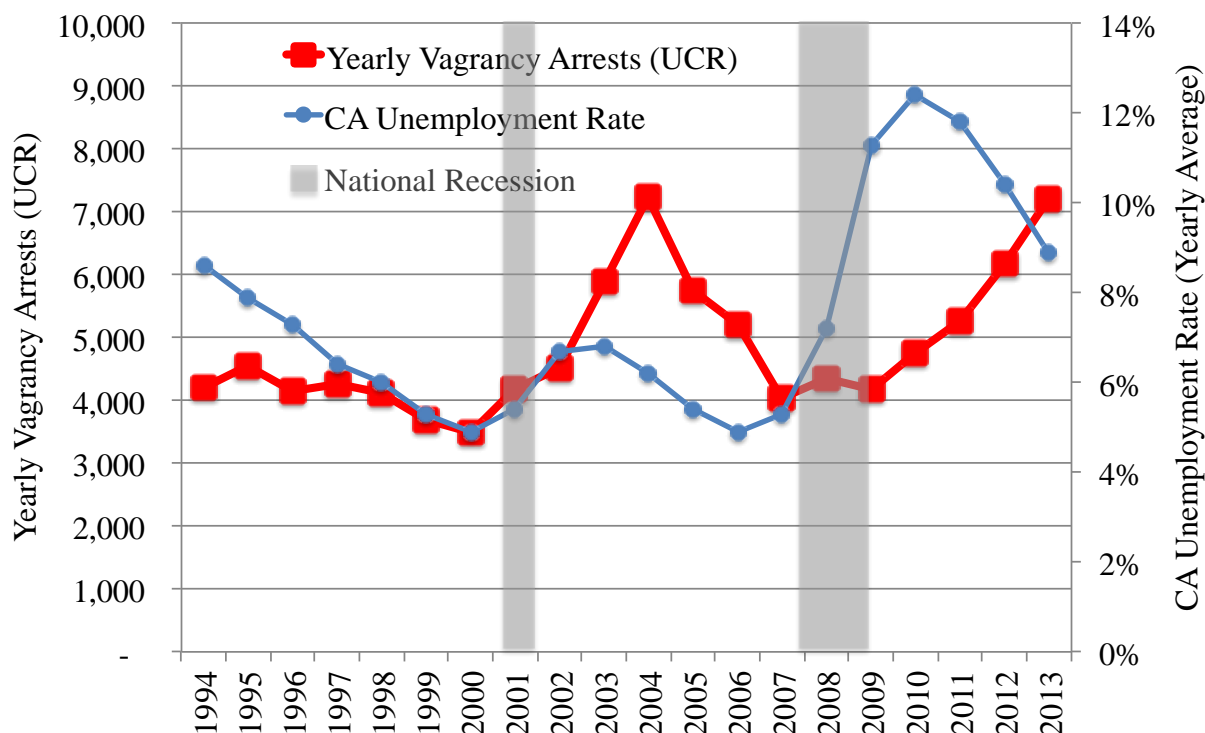


Figure 5

Over the last 20 years, vagrancy arrests peaked after economic recessions and increases in the California unemployment rate. Following the 2001 recession, arrests reached a high of 7,248 in 2004. Arrests then fell to approximately 4,000 in 2007. After the Great Recession, arrests again began to rise in 2010 and have continued to increase through 2013. These trends reinforce anecdotal accounts of enforcement against homeless people: enforcement increases in response to deteriorating economic conditions and rising levels of homelessness. Although California’s unemployment rate began to decline in 2011, the economic impacts of the Great Recession linger, and the UCR data indicate that enforcement continues to increase.

**Over the last 20 years, vagrancy arrests peaked after economic recessions and increases in the California unemployment rate.**

Moreover, vagrancy arrests have trended upward in recent years even as enforcement of other anti-homeless laws has declined at the state level. The following chart compares the percent change in UCR arrests since 2000, a pre-recession year, under the categories of “vagrancy” laws (as defined earlier), “drunkenness” laws, and “disorderly conduct” laws, here defined by the UCR as “any behavior that tends to disturb the public peace or decorum, scandalize the community, or shock the public sense of morality.”<sup>84</sup>

Percent Change in Arrests for Quality-of-life Offenses, 2000-2012

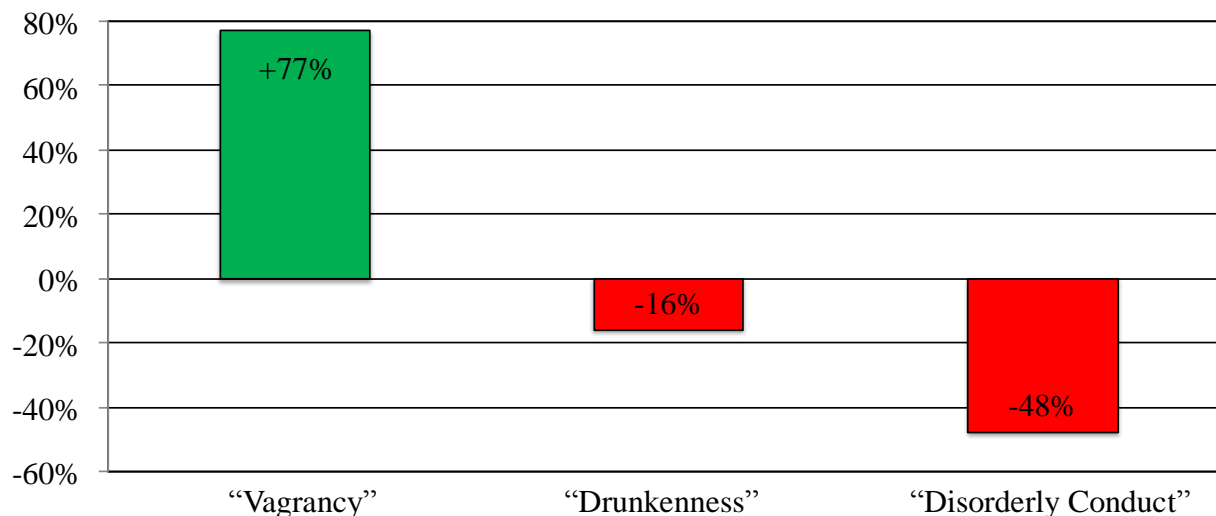


Figure 6

This comparison shows that the increase in “vagrancy” arrests is not part of a broader upward trend in the enforcement of anti-homeless laws targeting specific behaviors. Arrests for “drunkenness” and “disorderly conduct” declined by 16 and 48 percent over the same time period, respectively. In other words, since 2000, enforcement of laws restricting particular behaviors, such as drinking in public, has decreased while enforcement of laws restricting the status of being homeless has increased.

**[S]ince 2000, enforcement of laws restricting particular behaviors, such as drinking in public, has decreased while enforcement of laws restricting the status of being homeless has increased.**

In sum, an examination of UCR and OAG state-level indicators reveals that enforcement of laws criminalizing the activities associated with homelessness has surged following economic recessions over the past 20 years. Arrests for “vagrancy” are currently on the rise, even as enforcement of related laws criminalizing specific behaviors is decreasing. Greater enforcement of state codes in recent years has accompanied the proliferation of municipal anti-homeless codes described in Section II.

State-level trends do not tell the complete story of enforcement, however. In particular, they miss enforcement of local laws that criminalize homelessness, and they do not explain why local agencies increase or decrease enforcement over time. To provide more insight into these topics, we next consider enforcement patterns in several California cities in greater detail.

## B. City Case Studies

As noted above, state-level arrest statistics for California Penal Code violations provide just the tip of the iceberg of enforcement activities directed at homeless people. Most anti-homeless laws are municipal codes, but data about their enforcement is not compiled or reported across the state. We therefore conducted case studies to learn more about on-the-ground enforcement in several California jurisdictions. Within cities, local enforcement patterns and reporting practices

vary widely, so each case study is informed by interviews with stakeholders and experts.

While we conducted enforcement case studies in eight cities, we report the findings from San Francisco, Sacramento, and San Diego.<sup>85</sup> These are three of the six largest cities in the state by population, and together they represent the state's major geographic regions: the Northern coast, the Central Valley, and the Southern coast. In two of the three cities, we also have survey data from homeless people themselves, which is an important piece of the enforcement story. These cities provide a snapshot of California, but they do not represent a random sample, and their enforcement practices cannot necessarily be generalized to the state as a whole.

Taken together, the three case studies show that cities approach enforcement in diverse ways, and that analysis of a given city's municipal codes does not predict its choice of enforcement strategy. We begin with San Francisco, which enforces multiple municipal codes against homeless people. Sacramento, on the other hand, enforces one municipal anti-homeless code above all others. We conclude with San Diego, which historically has based homeless enforcement on state codes, only recently relying on municipal codes as an auxiliary tool. The cross-city comparison shows that jurisdictions have discretion to select from a set of tools that includes municipal anti-homeless laws, state anti-homeless codes, and facially neutral but selectively enforced codes to criminalize homelessness.

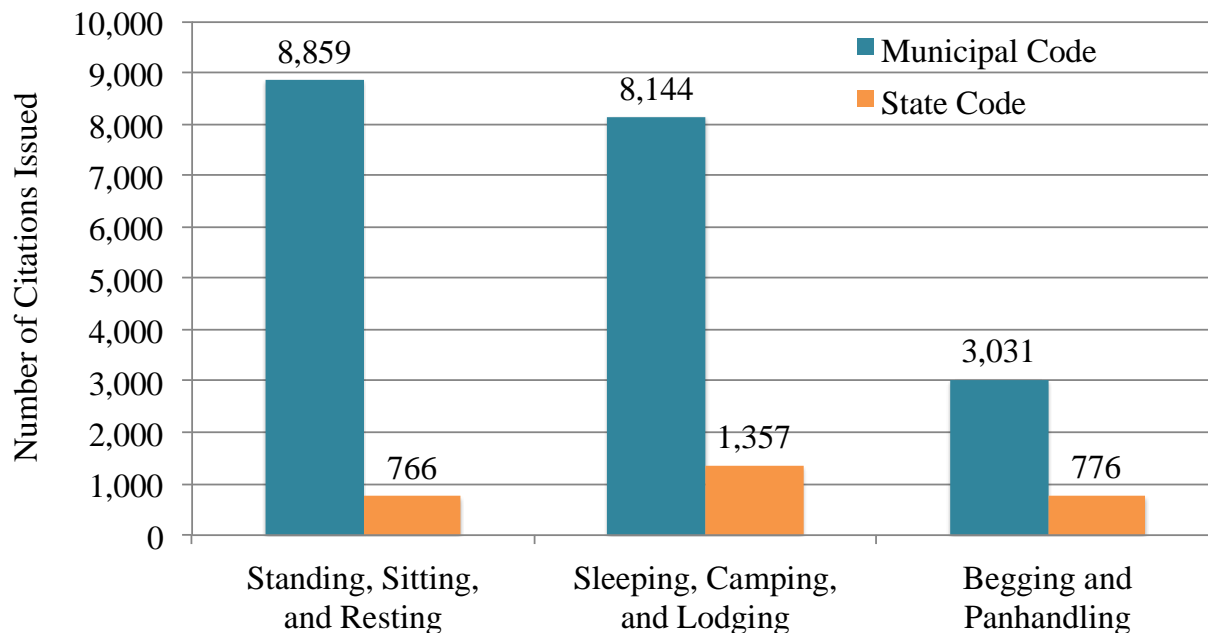
### *1. San Francisco: Sustained Enforcement of Multiple Municipal Codes*

San Francisco is the second largest city in Northern California and the fourth largest in the state, with a population of 837,442 in 2013. San Francisco has one of the largest homeless populations in California. A point-in-time count conducted in January 2013 reported 6,346 homeless people living in the city; a supplemental youth count identified 914 additional homeless unaccompanied children and transition-age youth.<sup>86</sup>

San Francisco has 23 municipal codes criminalizing daily activities associated with homelessness, well above the state average of nine. Among these are at least 10 codes that criminalize standing, sitting, and resting in public places; six distinct codes that criminalize sleeping, camping, and lodging in public places, including in vehicles; and seven codes that criminalize begging and panhandling.<sup>87</sup>

Police officers utilize this breadth of municipal codes to cite homeless people in San Francisco. Records of police citations maintained by the San Francisco Human Services Agency ("HSA") indicate that the police issued nearly 23,000 citations for sleeping, camping, sitting, resting, and begging between October 2006 and March 2014, including 20,000 under municipal codes.<sup>88</sup> The following graph shows the distribution of citations issued between October 2006 and March 2014 by offense type.

**San Francisco Citations Issued by Offense and Code Type, October 2006 – March 2014**



**Figure 7**

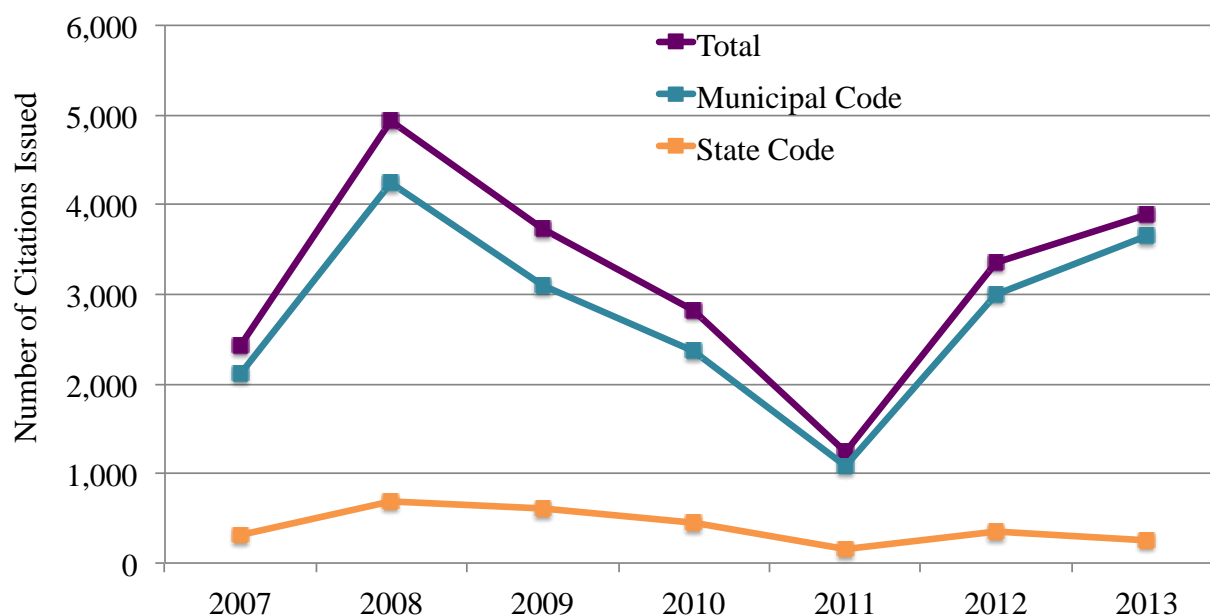
San Francisco issued more citations for standing, sitting, and resting between October 2006 and March 2014 than for any other type of prohibited activity.<sup>89</sup> Police issued nearly 4,100 citations under two municipal codes prohibiting obstruction of streets and sidewalks.<sup>90</sup> In addition, over 1,300 citations have been issued since 2011 under Municipal Police Code 168, a law enacted in November 2010 that prohibits people from sitting or lying on city sidewalks between 7 a.m. and 11 p.m. Thus, a significant proportion of San Francisco policing targets people without homes who are engaged in necessary, life-sustaining activities.

**San Francisco issued more citations for standing, sitting, and resting between October 2006 and March 2014 than for any other type of prohibited activity. . . . Thus, a significant proportion of San Francisco policing targets people without homes who are engaged in necessary, life-sustaining activities.**

San Francisco also heavily enforces municipal restrictions on sleeping, camping, and lodging in public places. Between October 2006 and March 2014, city law enforcement officers issued nearly 5,400 citations under a municipal code prohibiting sleeping in parks between 8 p.m. and 8 a.m. An additional 2,700 citations stemmed from violations of a related municipal code prohibiting camping in the city parks.<sup>91</sup> Police agencies rely on a variety of municipal codes to criminalize the unavoidable activities of homeless people both during the day and at night.

Based on the data above, San Francisco issued a yearly average of nearly 3,200 citations for anti-homeless laws between 2007 and 2013. The following graph shows state and municipal citations issued annually between 2007 and 2013, years for which a full set of data was provided.

**San Francisco Citations Issued for Anti-Homeless Laws  
by Code Type and Year, 2007-2013**



**Figure 8**

Enforcement has fluctuated from year to year: a high of 4,941 citations was recorded in 2008, and a low of 1,231 citations was recorded in 2011. No consistent chronological trend is evident, though citations have sharply increased in general election years (2008 and 2012). But trends in the use of state versus municipal codes are much clearer. Not only do municipal codes account for far more citations than state codes, but the discrepancy has also widened in recent years.

Michael Nevin, a Lieutenant in the San Francisco Police Department's Operations Bureau who works on outreach with the homeless community, described police officers' predominant enforcement of municipal codes. Police enforcement is "done at the behest of city government," he explained. Municipal codes reflect issues that "would have gotten the attention of the political powers that be, and they've decided that they want San Francisco to focus in on certain things."<sup>92</sup> Unlike state codes, municipal codes are responsive to the city's political will and can drive enforcement targeting specific activities based on current priorities.

**Police enforcement is "done at the behest of city government."**

*- Michael Nevin, Lieutenant, San Francisco Police Department Operations Bureau*

While a single violation of a code prohibiting sitting, sleeping, or begging in public cannot result in an arrest in San Francisco, citations issued for such violations are not innocuous. Each citation directs people to either pay a fine or appear in court to protest the citation.<sup>93</sup> However, homeless people are often unable to meet either requirement of a citation, incurring further enforcement consequences. Failure to pay a citation-related fine or schedule a hearing date may lead to the issuance of a warrant. Fines were paid in less than 10 percent of all anti-homeless citation cases in 2000, the most recent year for which we have data.<sup>94</sup> New warrants were issued in 30 percent of cases, and the remaining 60 percent of cases were sent to court, though most

violators failed to appear in court.<sup>95</sup> Failure to appear for a scheduled court hearing results in the automatic issuance of a bench warrant, which can—and often does—lead to an arrest at the discretion of the police officer.<sup>96</sup> Furthermore, Lt. Nevin noted that police officers can arrest people for repeat violations of the codes discussed above, which are unavoidable public activities for people without homes.

Thus, enforcement that begins with one citation often results in a homeless individual's arrest and booking. WRAP, the regional coalition of homeless advocacy groups, has surveyed over 250 homeless people in San Francisco on their experiences with law enforcement. Over one-quarter (26 percent) of the individuals surveyed reported that they had been arrested—or had seen other homeless people arrested—for sleeping in public.<sup>97</sup> Further, 26 percent reported having been arrested for loitering or hanging out; 24 percent, for sitting or lying down; and 25 percent, for panhandling (asking for money or help). Homeless people's presence in public can, and frequently does, lead to arrest and jail time in San Francisco.

As a final note, Lt. Nevin indicated that San Francisco's reliance on municipal codes rather than state codes benefits the homeless population. Unlike state codes, the city's municipal codes carry "mandated warnings," meaning people are issued a written warning rather than a citation for a first offense.<sup>98</sup> However, warnings are issued at the discretion of the police officer and can do little to change the daily activity of homeless people with few other options. The mandated warning system also means that the citation and arrest data analyzed above underrepresent enforcement against homeless people in San Francisco, much of which may leave no documented paper trail. In WRAP's survey results, for example, fewer than half (49 percent) of homeless individuals reported having been cited for sitting or lying down in public, but nearly all (95 percent) reported having been harassed by police for this activity.<sup>99</sup>

**Homeless people's presence in public can, and frequently does, lead to arrest and jail time in San Francisco.**

To summarize, San Francisco has almost two dozen anti-homeless laws and issued over 3,000 citations per year for violations of codes prohibiting sleeping, camping, standing, sitting, resting, and begging in public between 2007 and 2013. The city overwhelmingly relies on its municipal codes as the primary tool of enforcement, a tactic that may reflect the municipal codes' responsiveness to shifting political priorities. San Francisco issues a high volume of citations for both daytime activities, such as obstruction of streets and sidewalks, and nighttime activities, such as sleeping and camping in parks. And while police officers do not make arrests for initial offenses, homeless people often have no choice but to violate municipal laws repeatedly through their presence in public places. Repeated violations result in the issuance of citations, triggering events that frequently lead to an arrest.

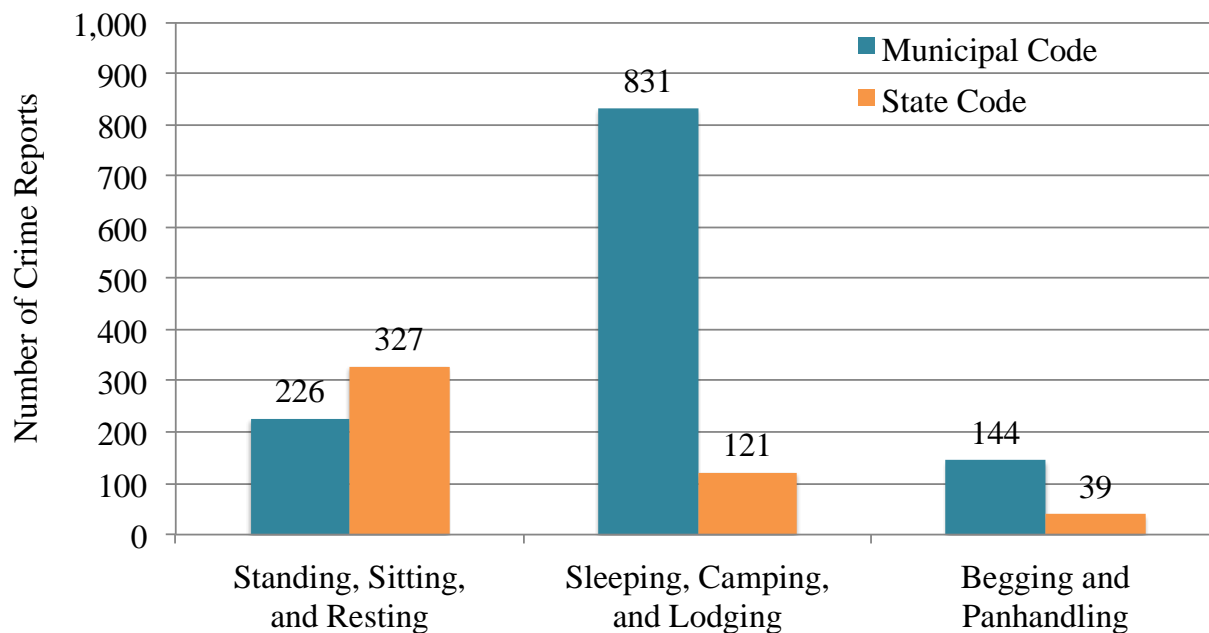
## *2. Sacramento: Increasing Enforcement of One Municipal Anti-Camping Code*

With a population of nearly 480,000 in 2013, California's state capital is the second most populous city in the Central Valley and the sixth most populous in the state. A point-in-time count conducted in January 2013 reported over 2,500 homeless people in Sacramento County, where Sacramento is the largest city.<sup>100</sup> Sacramento is notable not only for its sizeable homeless population but also for its long history of downtown homeless encampments along the American and Sacramento Rivers.<sup>101</sup> As recently as 2009, one such encampment peaked at around 200 tents.

The City of Sacramento has eleven municipal codes criminalizing daily activities associated with homelessness in California, slightly above the state average of nine. Among these are at least five codes that criminalize standing, sitting, and resting in public places; three codes that criminalize, camping, and lodging in public places, including in vehicles; and three codes that criminalize begging and panhandling.<sup>102</sup>

While San Francisco police make use of many municipal codes in their enforcement practices, Sacramento’s enforcement agencies have disproportionately and increasingly enforced just one municipal code in recent years: Sacramento City Code Section 12.52.030, which bans camping on public or private property (unless lawfully authorized).<sup>103</sup> While the Sacramento Police Department does not track citations, crime reports serve as a useful proxy for examining the relative frequency with which municipal and state codes are used. Sacramento Police Department crime report data, shown below, demonstrate the disproportionate reliance on Section 12.52.030 over the last decade.

**Sacramento Police Department Crime Reports by Offense and Code Type, January 2004 – September 2014**



**Figure 9**

Municipal codes account for 71 percent of the crime reports displayed above. While Sacramento has a large number of anti-homeless laws on the books, one plays an outsized role in police enforcement. Sacramento’s illegal camping code (Section 12.52.030) alone represents 69 percent of total municipal code

**While Sacramento has a large number of anti-homeless laws on the books, one plays an outsized role in police enforcement. Sacramento’s illegal camping code . . . alone represents 69 percent of total municipal code enforcement and nearly half of all enforcement under state and municipal codes.**

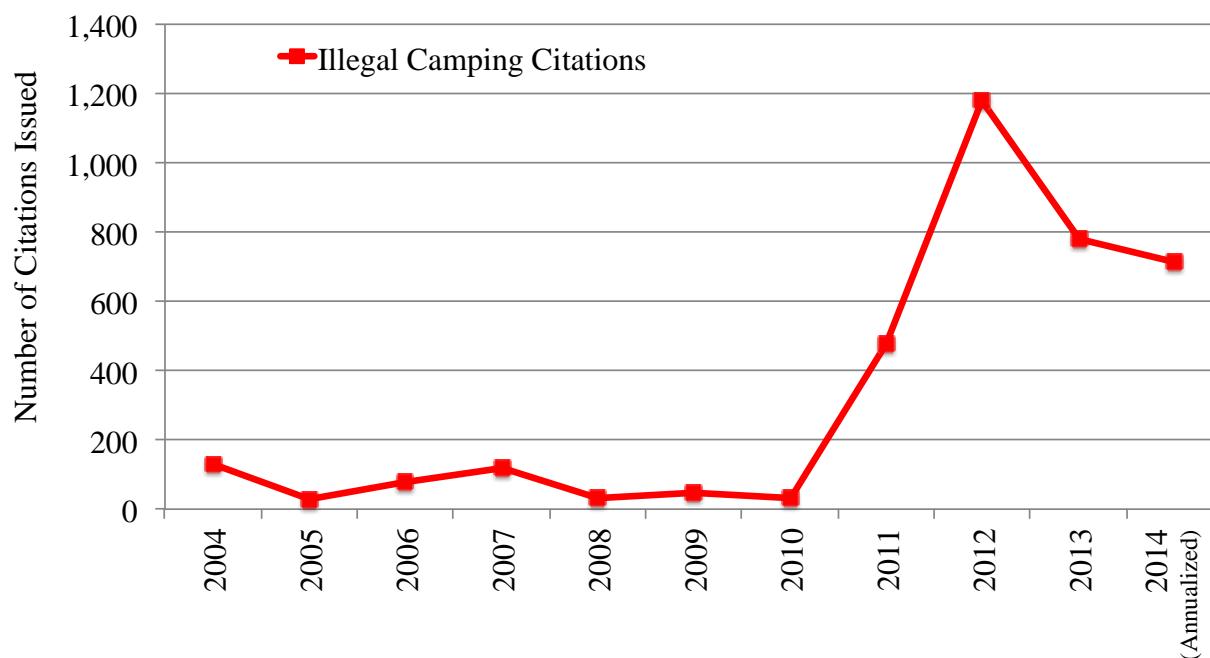
alone represents 69 percent of total municipal code



enforcement and nearly half of all enforcement under state and municipal codes.

Crime reports underestimate the total number of citations issued by Sacramento police. Further, police data do not reveal the full extent of anti-camping enforcement in Sacramento. Ron Blubaugh, the director of a legal clinic serving Sacramento's homeless community,<sup>104</sup> explained that Sacramento County Park Rangers write most of the city's illegal camping citations.<sup>105</sup> The following graph shows the number of illegal camping citations issued by the Park Rangers within city limits between 2004 and 2014.<sup>106</sup>

**Sacramento County Park Ranger Illegal Camping Citations  
Issued by Year, 2004-2014**



**Figure 10**

Illegal camping citations, specifically under Section 12.52.030, have surged in recent years.<sup>107</sup> Park Rangers issued fewer than 50 such citations in 2010, but nearly 1,200 just two years later, and citation volumes have remained high. In fact, illegal camping citations constituted a majority of all infraction/misdemeanor citations issued by Park Rangers between March and August 2014.<sup>108</sup>

Public pressure and local political priorities help explain the recent dramatic increase in Park Rangers' enforcement of Sacramento's municipal anti-camping code. Mr. Blubaugh explained that many housed Sacramento residents report homeless encampments along the American River Parkway, pressuring the County Board of Supervisors to act.<sup>109</sup> Paula Lomazzi, Executive Director of the Sacramento Homeless Organizing Committee, added that public pressure has grown in recent years as the neighboring River District has begun to gentrify.<sup>110</sup>

Amid these local pressures, the County Board of Supervisors added two additional park rangers to the illegal camping detail in 2012, which likely contributed to the spike in citations that year.<sup>111</sup> And there is no intention to moderate enforcement in the future. John Havicon, the Chief Ranger, confirmed: "Illegal camp[ing] enforcement is a priority to the County Board of

Supervisors, so the number of citations will continue to be higher.”<sup>112</sup> Thus, political and public pressures, rather than legal considerations, are driving increased enforcement in Sacramento.

Moreover, the heavy enforcement of Sacramento's municipal camping ban is just one aspect of a broader culture of policing homelessness in the city. Ms. Lomazzi noted that along with a tough law enforcement stance on illegal camping, “confiscation and throwing away property [of individuals who camp illegally] [remains] one of the big issues I see in enforcement,” even in the wake of a successful 2009 lawsuit against the City and County of Sacramento for seizing and throwing away homeless people's property.<sup>113</sup> “Neutral” city laws are enforced “more vigorously against homeless people.”<sup>114</sup> Mr. Blubaugh stressed that tickets for riding the city's light rail without paying a fare represent one of the most common citations issued to his homeless clients.

According to Mr. Blubaugh, police also frequently confront homeless people based on their appearance and ask them for identification to run warrant checks.<sup>115</sup> Survey data collected by WRAP on homeless people's experiences support this assertion. Of over 150 homeless individuals surveyed in Sacramento, 63 percent reported having been cited for sleeping in public, and 97 percent reported having been harassed by police for this activity.<sup>116</sup> Given earlier data on the enforcement of Sacramento's anti-camping code, these results are not surprising. However, in the same survey, 38 percent of respondents reported having been cited, and 97 percent reported having been harassed by police, for simply appearing homeless. Based on homeless individuals' experience of daily police harassment, Mr. Blubaugh concluded: “I have never seen a city as tough as Sacramento [on homelessness]. The political will in this city is for homeless people to go away.”<sup>117</sup>

**“I have never seen a city as tough as Sacramento [on homelessness]. The political will in this city is for homeless people to go away.”**

**- Ron Blubaugh, Director, Tommy Clinkenbeard Legal Clinic**

In sum, enforcement of anti-homeless laws in Sacramento is driven largely by the use of municipal code. Although the city has almost a dozen anti-homeless laws on the books, in recent years authorities have disproportionately enforced a single anti-camping code. More broadly, policing homelessness in Sacramento extends beyond the use of anti-homeless laws to selective enforcement of facially neutral laws, confiscation of property, and day-to-day harassment.

### *3. San Diego: Falling State Code Enforcement, Rising Use of Municipal Codes*

Located on the Southern California coast, San Diego is the second largest city in California with a population of over 1,350,000 in 2013.<sup>118</sup> San Diego has a large homeless population: a point-in-time count conducted in January 2013 reported 5,733 homeless people in the city, 54 percent of whom were unsheltered. San Diego County reported nearly 8,800 homeless people.<sup>119</sup>

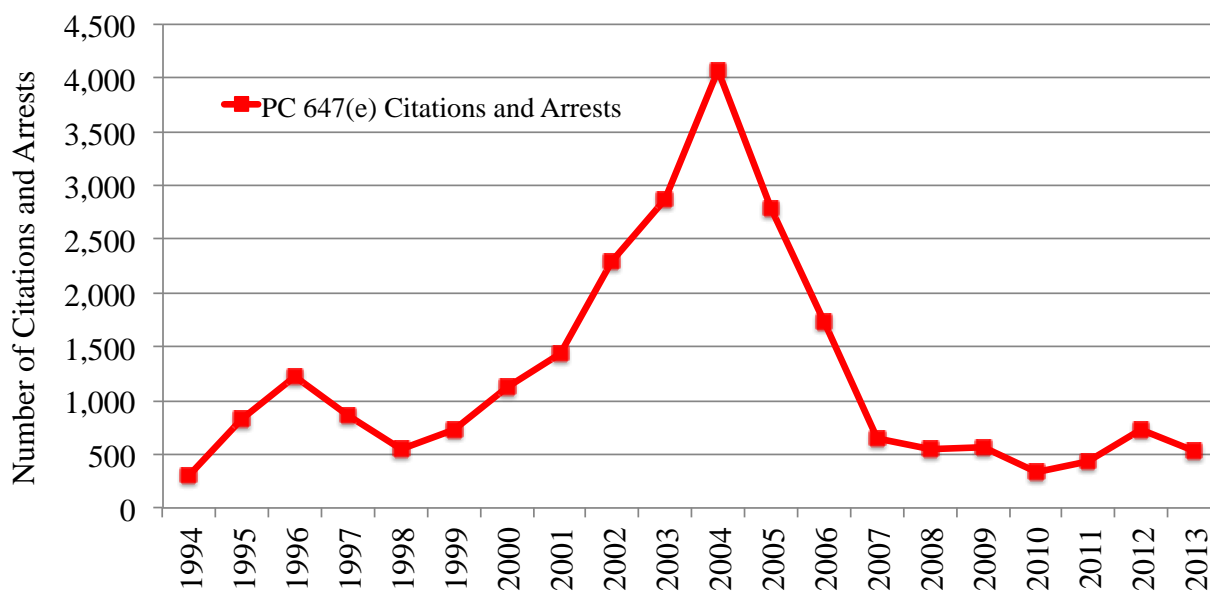
Like Sacramento, San Diego has eleven municipal codes that criminalize daily activities associated with homelessness, or slightly more than the state average. Among the eleven are four codes that criminalize standing, sitting, and resting in public places; five codes that criminalize sleeping, camping, and lodging in public places, including in vehicles; and two codes that criminalize begging and panhandling.<sup>120</sup>

These municipal codes, however, do not constitute the basis for San Diego's enforcement strategy. Over the past several decades, the “vast majority” of citations issued to homeless people

in San Diego have been for illegal lodging under California Penal Code 647(e).<sup>121</sup> Steve Binder, a longtime public defender in San Diego who founded the city’s Homeless Court in 1989, observed that city police officers have historically enforced state codes, rather than municipal codes, because they are perceived to have more “substance” and carry larger penalties.<sup>122</sup> Violation of Penal Code 647(e) is a misdemeanor offense and currently carries a statutory minimum fine of \$245 in San Diego,<sup>123</sup> with a maximum penalty of six months incarceration and a \$500 fine.<sup>124</sup>

San Diego’s enforcement of the illegal lodging code is substantial. The following graph shows total enforcement—including both citations and arrests—under Penal Code 647(e) in San Diego over the past 20 years.<sup>125</sup> More than 1,200 citations and arrests were recorded under Penal Code 647(e) on average each year, and over 4,000 citations and arrests took place in 2004 alone.

**San Diego Total Enforcement (Citations and Arrests) of PC 647(e)  
by Year , 1994-2013**



**Figure 11**

Citations represent the majority of the enforcement observed above. Police officers typically issue citations for a first violation, but may arrest “repeat offenders.” As Sergeant Rick Schnell, a 35-year veteran of the San Diego Police Department explained, “If there is a reasonable likelihood that the offense is going to continue, you’re going to go to jail.”<sup>126</sup> Officers can use their discretion to determine the “reasonable likelihood,” in their opinion, that people will continue to violate the illegal lodging code. With nowhere to go, unsheltered homeless people often have no choice but to continue sleeping in public and violating the law.

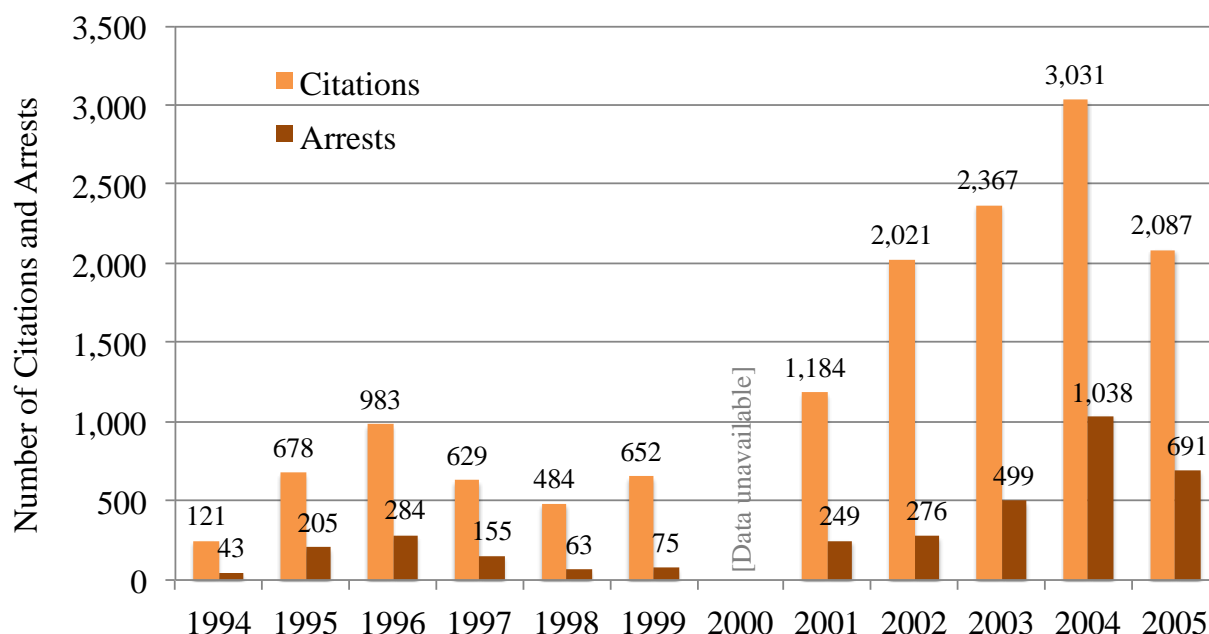
An additional consequence of Penal Code 647(e) enforcement has been the issuance of “stay-away” orders to prevent homeless people from returning to the areas of illegal lodging.<sup>127</sup> Stay-away orders may be issued

**“If there is a reasonable likelihood that the offense is going to continue, you’re going to go to jail.”**  
*- Sergeant Rick Schnell, 35-year veteran of the San Diego Police Department*

“even if [the homeless people] have no history or likelihood of reoffending.”<sup>128</sup> With shelter options limited, it has not been unusual for homeless people to accrue multiple 647(e) citations or arrests for violating stay-away orders by remaining at a certain location.<sup>129</sup>

The graph below compares the volume of Penal Code 647(e) citations and arrests in years for which this distribution is available. In 2004, a year of peak enforcement, over 1,000 people were arrested under Penal Code 647(e) in San Diego, and more than one arrest was made for every three citations issued that same year.

**San Diego Citation/Arrest Distribution under PC 647(e)  
by Year, 1994-2005**



**Figure 12**

A comprehensive distribution of citation and arrest data is not available for years after 2005, but recent statistics provided by the San Diego Police Department confirm that Penal Code 647(e) is still enforced frequently, and disproportionately, compared to other state and municipal codes. Between August and September 2014, for example, the San Diego Police Department made 64 arrests and bookings under Penal Code 647(e).<sup>130</sup> In comparison, the department made only 12 arrests under all other state codes criminalizing lodging and loitering,<sup>131</sup> and made no arrests under any other anti-homeless law.

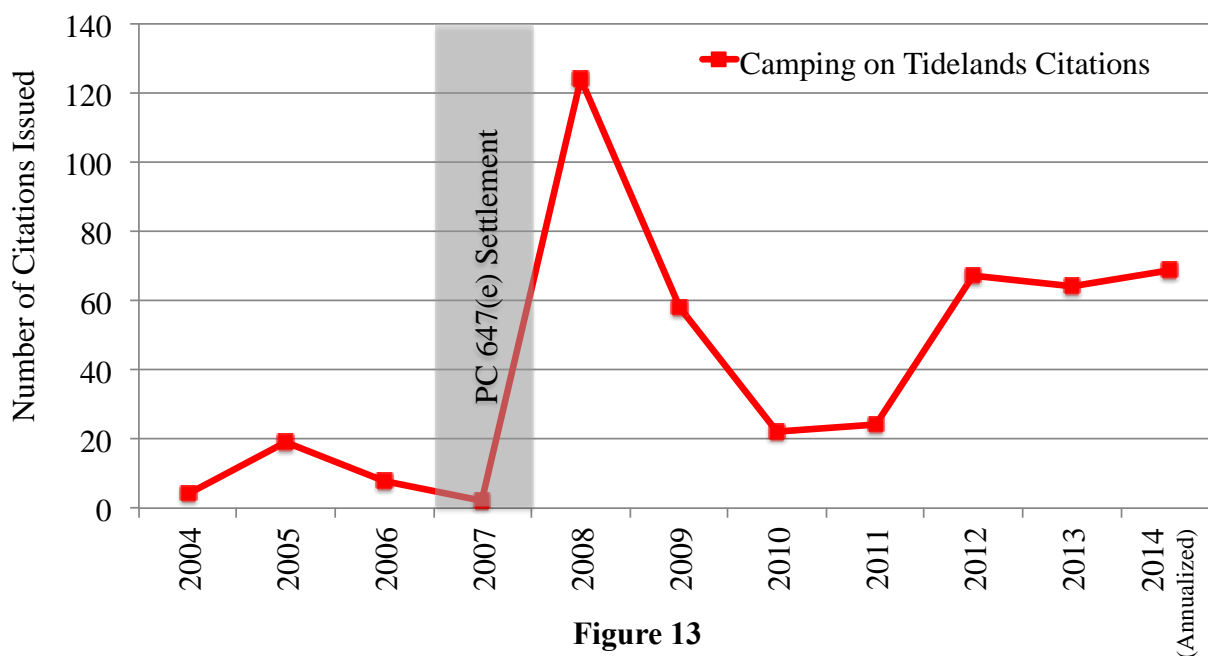
Still, analysis of data over time reveals that enforcement of Penal Code 647(e) has declined somewhat in recent years, with total arrests and citations hovering around 500 per year since 2007. Changes in policing strategy and successful lawsuits challenging the legality of the city’s criminalization efforts are responsible for the downward trend in illegal lodging enforcement. First, advocates sued the city in 2004, which resulted in a 2007 settlement that stopped police officers from issuing citations and making arrests for illegal lodging on public property between 9 p.m. and 5:30 a.m.<sup>132</sup> In the wake of this settlement, “officers didn’t feel like they were being supported by the city for the arrests [under this code].”<sup>133</sup>

Second, the San Diego Police Department’s Homeless Outreach Team (“HOT”), a unit consisting of police officers, clinicians, and social services staff, has promoted a more “humanistic” approach to enforcement. Over time, HOT has served as a “resource to patrol” and has promoted so-called “field interviews”—educational interactions between police officers and homeless people not leading to formal arrests or citations.<sup>134</sup>

The downward trend observed in Penal Code 647(e) enforcement may not, however, be indicative of an unambiguous decrease in the recent policing of homelessness. Mr. Binder noted that despite HOT’s work, law enforcement agencies continue to police homelessness in response to public and business complaints, often employing “creative” enforcement strategies.<sup>135</sup>

One of these strategies has been to rely more heavily on municipal codes that criminalize activities associated with homelessness. Specifically, Vanessa Jimenez, a deputy public defender in San Diego, observed a significant number of citations for overnight camping on tidelands during her past year of practice.<sup>136</sup> Overnight camping on tidelands, or coastal areas, is prohibited under Section 8.18 of the San Diego Unified Port Code;<sup>137</sup> the San Diego Harbor Police, an entity separate from the San Diego Police Department, is responsible for enforcing the code. Data on yearly enforcement of Section 8.18 by the San Diego Harbor Police appear below.<sup>138</sup>

**San Diego Harbor Police Camping on Tidelands Citations Issued by Year, 2004-2014**



**Figure 13**

The data show an increase in the number of citations issued under Section 8.18 starting in 2008, the year following the Penal Code 647(e) settlement. While Harbor Police issued an average of fewer than 10 citations per year under 8.18 between 2004 and 2007, they have issued an average of over 60 citations under this code between 2008 and 2014—the increase from 2007 to 2008 alone went from two to 124.

A second “creative” tactic to target homeless people in public spaces has been to selectively enforce facially neutral municipal codes. One such code is Section 54.0110, titled “Unauthorized

Encroachments Prohibited.” When Section 54.0110 became effective in late 2007, it was intended to eliminate safety hazards associated with unauthorized solid waste or recycling dumpsters and bins.<sup>139</sup> The code’s vague language has allowed police to use it against homeless people.<sup>140</sup> Sgt. Schnell confirmed that several years after the Penal Code 647(e) settlement terms took effect, the San Diego Police Department identified Section 54.0110 as a potential enforcement tool against homeless people: the department “figure[d] that new section out, [got] it cleared through the City Attorney” on a legal basis, and began using it to cite homeless people.<sup>141</sup> Mr. Binder corroborated this account, noting that citations under Section 54.0110 have become increasingly “popular” among his clients.<sup>142</sup> Indeed, the August to September 2014 enforcement data list no arrests under municipal codes specifically criminalizing homelessness, but show that five people were arrested under Section 54.0110 during the 60-day period.<sup>143</sup>

Finally, Ms. Jimenez confirmed that neutral laws beyond Section 54.0110 are “absolutely applied to more homeless people than non-homeless people” in San Diego.<sup>144</sup> Examples include disproportionate enforcement for offenses like trolley fare evasion and public intoxication. San Diego police are not unique in the selective enforcement of vague laws against homeless people.<sup>145</sup> The selective enforcement of Section 54.0110 and other neutral codes demonstrates that municipal codes specifically prohibiting activities associated with being homeless—like sitting, sleeping, and eating in public—are not the only enforcement tools. Neutral laws enacted for reasons unrelated to homelessness can also be used against people without homes.

**Neutral laws are “absolutely applied to more homeless people than non-homeless people.”**

*- Vanessa Jimenez, Deputy Public Defender*

In sum, San Diego has traditionally relied upon California Penal Code 647(e) to criminalize homeless people. But the 2007 settlement prohibiting enforcement of Penal Code 647(e) at night, as well as the growing impact of HOT’s work within the police department, has recently led law enforcement to use other tools to criminalize homelessness. City officials adopted two “creative” tactics in particular, increasing enforcement of Port Code Section 8.18, which prohibits camping in tidelands, and Municipal Code Section 54.0110, a facially neutral code prohibiting encroachments on public property. San Diego’s story demonstrates the adaptable nature of local enforcement practices: even when traditional tools are limited through lawsuits or other forms of pressure, the agencies can rely on other strategies to continue targeted enforcement against homeless people.

#### *4. Summary of Case Studies*

California cities criminalize homelessness in different ways. While the municipal anti-homeless codes analyzed in Section II serve as the primary enforcement tool in cities like Sacramento and San Francisco, they play a supporting role in the enforcement strategies of cities like San Diego. Even cities that rely predominantly on municipal anti-homeless codes may differ in their approach to enforcement. San Francisco heavily enforces several municipal codes, whereas Sacramento prioritizes just one code. Analysis of enforcement practices in all three cities also indicates that the use of anti-homeless codes, whether municipal or state, is just one aspect of enforcement. Cities selectively enforce facially neutral laws disproportionately against homeless people, and police agencies may use tactics including property confiscation and informal harassment to punish homeless people for their presence in public.

### C. Conclusion

California cities use both state and local laws to cite and arrest homeless people. State-level indicators demonstrate that enforcement levels have increased following economic recessions over the past two decades, and that enforcement of loitering and “vagrancy” laws has outpaced enforcement of other anti-homeless measures in recent years.

City case studies reveal that California cities vary widely in their preferred enforcement tools and strategies. Municipal codes criminalizing homelessness are only one tool that cities use to harass homeless residents. Other tools include enforcement of state anti-homeless codes, selective enforcement of laws that appear neutral on their face, and unrecorded harassment.

Even in cities that may not currently rely on municipal codes for enforcement, the proliferation of local anti-homeless laws discussed in Section II is significant. In the context of a broad enforcement toolkit that can be applied selectively, such proliferation has provided cities with additional enforcement options. If local efforts block cities from enforcing one or more state or local codes, numerous other enforcement options remain available.

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## IV. The Impact of Anti-Homeless Laws and Enforcement

As described above, California cities are increasingly enacting and selectively enforcing anti-homeless laws. As a result, homeless people are frequently punished for the act of being present in public. The criminalization of homelessness extends beyond daily harassment and indignity, however, to include broader socioeconomic, legal, and fiscal consequences. Importantly, there is ample evidence of more humane and less expensive alternatives to criminalization.

### A. Enforcement Harms Homeless People and Perpetuates Poverty

By enforcing anti-homeless laws, California cities target their most vulnerable residents and further complicate their daily struggle for survival and dignity. During initial encounters with homeless people, police officers often issue citations, which can carry significant fines. Citations under Sacramento's strict anti-camping law, for example, carry fines of \$120,<sup>146</sup> while citations under Penal Code 647(e) in San Diego carry fines of \$245 or more.<sup>147</sup> For people already living in poverty, such fines are prohibitively expensive. A sample of infraction cases from San Francisco in 2000 found that fines were paid in full in only seven percent of cases.<sup>148</sup> The failure to pay these fines can lead to arrest, and subsequent incarceration perpetuates the poverty cycle.<sup>149</sup>

For people seeking jobs to escape homelessness and poverty, arrests and resulting criminal records—even for infractions for activities as innocuous as resting—are a significant barrier to employment.<sup>150</sup> And for those who are employed, an arrest and associated court appearances can cost them their jobs.<sup>151</sup> Enforcement thus creates barriers to finding and maintaining work, which makes it more difficult for homeless people to escape poverty.

In addition, involvement with the criminal justice system often restricts homeless people's eligibility for public programs, cutting them off from the social safety net designed to protect them. For example, Supplemental Security Income (SSI) benefits, a form of income support for low-income disabled adults and children, are suspended during incarceration,<sup>152</sup> and federal and state regulations allow Public Housing Authorities to deny applicants based on arrest records.<sup>153</sup>

The enactment and enforcement of anti-homeless laws does nothing to address the root causes of homelessness. People barred from accessing public assistance, qualifying for public housing, and finding employment have limited means to escape poverty. Indeed, the demoralizing psychological impact of being arrested for sitting or sleeping in public can reduce individuals' trust in the social safety net. By prolonging the cycle of poverty, the criminalization of homelessness ensures that many people remain homeless.<sup>154</sup>

### **B. Enforcement Can Be Illegal**

Anti-homeless laws enforced against people who have no choice but to live in public also raise serious constitutional questions.<sup>155</sup> Most homeless people in California are unsheltered, meaning they sleep in public out of necessity.<sup>156</sup> In this context, the Ninth Circuit Court of Appeals held a Los Angeles municipal law that prohibited sitting, lying, or sleeping in public places violated homeless people's Eighth Amendment right to be free from cruel and unusual punishment.<sup>157</sup> When laws prohibiting sleeping or camping in public become an enforcement priority, the resulting arrest campaigns may restrict the right of homeless people to move freely.<sup>158</sup> And the confiscation of property that often accompanies such arrest campaigns—highlighted previously in the case study of Sacramento—may violate Fourth Amendment guarantees against unreasonable searches and seizures.<sup>159</sup>

At the same time, neutral laws used to criminalize homelessness often employ general terms that allow for selective enforcement. Such laws have been challenged for violating the Fourteenth Amendment's constitutional guarantee of equal protection.<sup>160</sup> As noted above, in 1972, the U.S. Supreme Court struck down a Jacksonville, Florida vagrancy ordinance on the grounds that it was unconstitutionally vague.<sup>161</sup> The court further reasoned that the law allowed people to be arrested based on a lower standard than probable cause, which is required by law.<sup>162</sup> San Diego has increasingly relied on a facially neutral municipal code written to prohibit the encroachment of dumpsters in public alleyways as a tool for criminalizing homelessness in recent years.<sup>163</sup> Anti-panhandling codes, too, are often written vaguely enough to allow for discriminatory enforcement.<sup>164</sup>

Challenges to laws criminalizing homelessness on the grounds of arbitrary enforcement have gained some traction in recent years. In June 2014, the U.S. Court of Appeals for the Ninth Circuit struck down a Los Angeles municipal code that prohibited people from "us[ing] a vehicle parked or standing... as living quarters."<sup>165</sup> The court held that the code was unconstitutionally vague and violated the Due Process Clause of the Fourteenth Amendment because it failed to clearly notify people of the conduct it criminalized, and because it promoted arbitrary enforcement of the law against homeless people.<sup>166</sup> Many municipal codes have yet to be challenged, perhaps because the people these laws target are among the least likely members of society to use legal assistance.<sup>167</sup> As cities enact and enforce vague anti-homeless laws, they may be increasingly vulnerable to constitutional challenges.

### **C. Enforcement is Expensive**

The criminalization of homelessness not only targets California's most vulnerable citizens, potentially in violation of the Constitution, but it also has significant financial implications for cities, counties, and the state. In the case studies discussed above, law enforcement agencies in San Francisco, Sacramento, and San Diego have issued thousands of citations to homeless people each year. Even if citations take 10 minutes or less to issue, such enforcement adds up to



significant police time each year, funneling time and money away from more serious matters.<sup>168</sup>

The court system then processes the citations that police officers issue, which results in additional costs. In San Francisco alone, Superior Court processing costs for anti-homeless citations were estimated at \$4.10 per case in 2000, resulting in a total cost of \$77,900 for anti-homeless citations that year.<sup>169</sup> The San Francisco District Attorney's office then spent \$317,086 processing anti-homeless infractions and misdemeanors in the same fiscal year. With inflation and heightened enforcement, these figures are almost certainly higher today. Cities across California similarly expend resources to process citations, likely resulting in a financial cost of millions of dollars per year statewide.<sup>170</sup>

Counties incur additional expenses when people are jailed for violating anti-homeless laws and not paying their fines. An analysis of cost studies of homeless interventions conducted between 2004 and 2009 in major U.S. cities, including Los Angeles and San Francisco, found that U.S. jurisdictions spend an average of \$87 per day to incarcerate an individual in a county jail, but only \$28 per day—less than a third of that figure—to offer shelter.<sup>171</sup> Incarceration places a high cost burden not only on homeless people themselves, but also on the state criminal justice system. Moreover, the costs of criminalization and the costs of providing housing services are not borne equally by governmental agencies. Cities decide whether to issue citations, but counties pay for the judicial and jail costs that result from these citations.<sup>172</sup> The resulting misalignment of financial impacts between different levels of government creates little incentive for cities to pursue alternatives to criminalizing homelessness.

The costs highlighted above, however, do not fully capture the fiscal impact of criminalization. As discussed earlier in this Section, citations and arrests also carry longer-term consequences and perpetuate the cycle of poverty and homelessness. Prolonged homelessness greatly reduces life expectancy and health. While California-specific figures are not available, a study in New York City found, for example, that homeless people spent four days longer on average in hospitals than comparable housed people per visit.<sup>173</sup> Similarly, the Utah Housing and Community Development Division found that homeless people incur an average annual cost of \$16,670 in emergency room visits and jail stays—nearly \$6,000 more than the annual cost of an apartment and a social worker.<sup>174</sup> These costs could be avoided if cities focused on housing homeless people rather than criminalizing their presence in public.

#### **D. More Humane and Less Expensive Alternatives to Criminalization Exist**

Given the high direct and indirect costs of criminalizing homelessness, U.S. cities that have embraced alternatives to heavy enforcement have seen cost savings. The Housing First program in Seattle, for example, offered permanent housing to homeless people with alcohol addictions and extreme health care costs. A comparison of average costs for housed participants and a wait-list reference group revealed a net cost savings of nearly \$2,450 per month per housed individual, even after accounting for the cost of the housing program.<sup>175</sup> A recent study in Central Florida reported similar results: offering permanent housing rather than relying on enforcement of anti-homeless laws resulted in an annual savings of \$21,014 per person.<sup>176</sup>

Similar initiatives in California have generated cost savings as well. In Los Angeles from 2008 to 2010, a program called Project 50 offered housing and supportive services to 50 chronically homeless individuals living on Skid Row. After an initial investment of \$3 million, the program was cost neutral after two years and generated a surplus of \$238,700

(\$4,774 per occupied unit of housing) because of savings on incarceration and medical services.<sup>177</sup>

San Francisco's Community Housing Partnership, a nonprofit that uses the Housing First model, has demonstrated the effectiveness of job training programs in preparing formerly homeless individuals for employment and self-sufficiency. The organization's employment preparation program, Solutions SF, increased the number of permanent job placements for formerly homeless participants by over 200 percent in fiscal year 2012-2013 compared with prior years.<sup>178</sup> While the cost savings stemming from this initiative have not been quantified, promoting stable employment among formerly homeless individuals generates substantial savings by decreasing the demand for short-term social services. The success of Project 50 and the Community Housing Partnership demonstrates the feasibility of alternatives in California.

In sum, the criminalization of homelessness is problematic for a wide variety of reasons. Not only do existing enforcement patterns deprive homeless people of means to escape poverty, but they also burden cities with significant financial costs while raising legal questions. By reducing its support for development of affordable housing and by allowing municipal criminalization of homelessness, California has adopted a counterproductive approach—especially given the existence of demonstrated alternatives that are more humane and less expensive. The concluding Section of this report offers insight on steps toward change.

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## Conclusion and Steps Toward Change

In recent decades, California cities have increasingly responded to persistent homelessness by criminalizing the presence of homeless people in public. The number of municipal codes criminalizing activities associated with being homeless—including sleeping, standing, and eating in public—has more than doubled since 1990 in the 58 cities studied. And the pace of enactment shows no signs of slowing down. Compared with most major cities across the United States, California cities are now substantially more likely to place restrictions on camping in public, lodging in vehicles, and resting in particular places, among other activities.

The enactment of anti-homeless laws at the municipal level has expanded criminalization and punishment of the state's most vulnerable residents by local authorities. Cities like Sacramento and San Francisco have relied heavily on local codes to criminalize the daily activities of their homeless populations in recent years. Yet municipal laws are just one component of a broader toolkit for criminalization. Cities like San Diego rely predominantly on state codes for enforcement, using municipal codes as an auxiliary tool. Enforcement approaches differ across cities, but their impact is consistent: the criminalization of homeless people perpetuates poverty, deprives people of basic rights, and drains city and state budgets.

We need a new approach. While detailed policy recommendations are beyond the scope of this report, our research points in three general directions for change.

### A. Seek a State-Level Solution

Ending the criminalization of homelessness in California requires action at the state level. Cities have significant discretion in enacting anti-homeless laws and selectively enforcing them. Some rely primarily on local anti-homeless laws, while others primarily enforce state laws. Local agencies also display "creativity" in enforcement, repurposing unrelated municipal laws to target

the activities of homeless people when lawsuits threaten the use of established state or municipal codes.

For this reason, restricting only some enforcement tools can be ineffectual. Where advocates have succeeded in blocking enforcement of certain local or state codes, cities have opted to enforce other laws. Inconsistent enforcement strategies across California also result in “justice by geography” where homeless people are treated very differently. Perhaps most importantly, without state-level intervention, California cities have been engaged in a race to the bottom by increasing criminalization, hoping to drive homeless people elsewhere and make them someone else’s problem. Comprehensive reform must target the full range of state codes and municipal laws that criminalize homelessness.

### **B. Improve Data Collection and Reporting**

Data collection for this report revealed large gaps in cities’ reporting of enforcement activities against homeless people. City agencies do not report the number of citations issued under municipal anti-homeless codes to the state. Statewide reports of city-level enforcement under state codes do exist, but they aggregate enforcement data into vague categories like “vagrancy,” which do not indicate which specific laws the cities use to criminalize homelessness. In addition, cities do not uniformly report this data to the California Department of Justice. Some cities report arrests only, but others may include citations as part of an overall enforcement count.

The quality of data tracking at the local level also varies considerably. While some cities track citations issued under specific local anti-homeless codes, others classify all anti-homeless violations as municipal code infractions, making disaggregation impossible. Still others do not track citation statistics at all. Further, no city contacted for the purposes of this report tracks enforcement of laws specifically against homeless people. And importantly, information on citations, warrants, arrests, and incarceration rates may be held by separate public agencies, making it impossible to piece together a complete record of criminalization.

Effective reforms must address these shortcomings. Unless statistics on the criminalization of homelessness are reported at the city level and tracked statewide, we cannot determine whether new policies are making a significant impact on enforcement practices. Strong state-level change requires universal and uniform tracking of enforcement activities against homeless people.

### **C. Align Stakeholder Incentives**

Finally, policies aimed to end the criminalization of homelessness in California must account for the many stakeholders involved in perpetuating the current patterns of enactment and enforcement. Police agencies do not unilaterally decide to enforce local and state laws against homeless people. Rather, as the case studies in this report demonstrate, police commonly enforce anti-homeless laws in response to pressure from local politicians, business leaders, and members of the public who are frustrated by the acute levels of homelessness that impact the standard of living for all Californians, especially those who have no homes.

Curtailing law enforcement’s ability to target homeless people would not stop others from demanding action. Indeed, in the absence of steps to raise awareness and help homeless people escape poverty, reform might only encourage cities to find more creative enforcement tactics. In the long term, therefore, decision-makers must account for all stakeholders when crafting

policies to end the criminalization of homelessness. Comprehensive reform can only be achieved if the incentives of the public, the business community, the political powers, and government agencies at both city and county levels are aligned with a commitment to treat homeless people as people and not problems.

Unfortunately, California's municipal leaders have responded to growing homelessness by criminalizing people for engaging in necessary, life-sustaining activities. Cities have enacted laws to punish people who have no choice but to be present—that is, to sleep, stand, and eat—in public. Criminalizing these activities does not provide people with an alternative space to survive; it only wastes precious resources and deepens the cycle of poverty. Legislators, law enforcement agencies, and other community stakeholders must develop new approaches to help those who have nowhere to live but outside. Given the high number of homeless people and the extent of criminalization in California compared to other states, the Golden State is uniquely positioned to lead the way. California's state leaders must pursue solutions that are more effective, economical, and humane.

## Appendix A: Count of Anti-Homeless Laws by California City

City	Number of Restrictions by Category				Total Restrictions	Total Laws <sup>179</sup>
	Standing, Sitting, and Resting	Sleeping, Camping, and Lodging	Begging and Panhandling	Food Sharing		
Albany	1	5	-	1	7	6
Anaheim	9	5	3	2	19	14
Bakersfield	2	5	4	-	11	8
Berkeley	4	4	4	-	12	10
Chula Vista	2	3	2	-	7	6
El Cajon	2	8	3	-	13	11
Elk Grove	3	2	3	-	8	7
Escondido	5	2	2	-	9	8
Fresno	9	3	2	-	14	11
Garden Grove	1	3	2	-	6	5
Glendale	3	2	5	-	10	9
Hayward	1	2	2	1	6	6
Huntington Beach	6	3	3	-	12	9
Irvine	2	4	2	1	9	6
Lancaster	4	3	2	-	9	5
Long Beach	7	6	6	2	21	19
Los Angeles	11	3	7	2	23	19
Modesto	9	3	4	1	17	15
Moreno Valley	2	2	1	-	5	4
Nevada City	6	3	-	-	9	7
Oakland	6	1	3	-	10	8
Ontario	1	3	1	-	5	5
Orange	3	3	1	-	7	7
Oxnard	3	1	1	-	5	4
Palmdale	1	3	-	-	4	2
Palo Alto	3	2	7	-	12	11
Pasadena	4	1	2	1	8	6
Pomona	3	4	8	-	15	15
Rancho Cucamonga	4	-	1	-	5	4
Redondo Beach	4	4	3	-	11	11
Riverside	3	1	3	-	7	6
Roseville	3	4	4	-	11	8
Sacramento	6	3	3	-	12	11
Salinas	4	1	4	-	9	8
San Bernardino	3	3	5	1	12	12
San Bruno	5	3	4	-	12	10
San Diego	4	5	2	-	11	11
San Francisco	10	6	7	-	23	23
San Jose	4	4	4	-	12	10
San Luis Obispo	2	2	2	-	6	6
Santa Ana	4	2	-	-	6	4
Santa Barbara	2	3	4	1	10	10
Santa Clara	3	3	-	-	6	4
Santa Cruz	5	3	3	-	11	9
Santa Monica	7	3	3	1	14	14
Santa Rosa	4	3	4	-	11	11

City	Number of Restrictions by Category				Total Restrictions	Total Laws
	Standing, Sitting, and Resting	Sleeping, Camping, and Lodging	Begging and Panhandling	Food Sharing		
Simi Valley	1	2	3	-	6	5
South Lake Tahoe	3	4	3	-	10	9
Sunnyvale	3	2	4	-	9	8
Thousand Oaks	3	2	2	1	8	5
Torrance	4	5	2	-	11	11
Tracy	2	2	4	-	8	7
Ukiah	3	3	3	-	9	8
Union City	4	1	1	-	6	4
Vallejo	1	2	1	-	4	4
Victorville	5	2	2	-	9	7
Visalia	3	1	4	-	8	8
Whittier	5	3	3	-	11	9
<b>Total</b>	<b>227</b>	<b>171</b>	<b>168</b>	<b>15</b>	<b>581</b>	<b>500</b>

## Appendix B: Examples of Anti-Homeless Laws in California

### A. LOITERING

#### Lancaster

##### 9.12.020 - Prohibition.

- A. Rights-of-Way. No person, after first being warned by a peace officer to vacate the premises, or where a sign has been posted giving notice of the provisions of this chapter, shall loiter in or upon any public street, sidewalk, curb, crosswalk or other public right-of-way so as to obstruct the free passage of pedestrian or vehicular traffic thereon. This section does not prohibit a person from sitting upon a public right-of-way if:
1. Necessitated by physical disability;
  2. Viewing a legally conducted parade; or
  3. On a bench lawfully installed.
- B. Buildings. No person shall loiter so as to obstruct or prevent access to any structure or building open to the public.
- C. Shopping Centers. No person, after first being warned by a peace officer to vacate the premises, or where a sign has been posted giving notice of the provisions of this chapter, shall loiter in a parking lot of a shopping center without lawful business in any of the retail stores or service establishments of such shopping center.

(Prior code § 4-1.11)<sup>180</sup>

#### Los Angeles

##### Sec. 41.18. Sidewalks, pedestrian subways – loitering.

[. . .]

- (b) No person shall loiter in any tunnel, pedestrian subway, or on any bridge overpass, or at or near the entrance thereto or exit therefrom, or at or near any abutment or retaining wall adjacent to such entrance or exit, or any retaining wall or abutment adjacent to any freeway, street or highway open and used for vehicular traffic, or adjacent to that portion thereof used for vehicular traffic, or on any public property in the proximity of such bridge, overpass, or retaining wall or abutment.

Sec. 41.18 has not been preempted by State Legislation encompassing loitering offenses.

*Gleason v. Municipal Court* (April 1964), 226 Cal. App. 2d-226 ACA 701.

[. . .]<sup>181</sup>

### B. SIT/LIE

#### San Jose

##### 10.10.010 Prohibition on sitting or lying down on sidewalks.

No person shall sit or lie down upon a public sidewalk, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk, in the pedestrian facilitation zone, during the hours between 10:00 a.m. and 12:00 a.m. (midnight).

(Ord. 25287.)<sup>182</sup>

#### Palo Alto

##### 9.48.025 Sitting or lying on public sidewalks in University Avenue area/commercial downtown Palo Alto - Prohibited.

- (a) No person shall sit or lie down upon the public sidewalk, or upon a blanket, chair, stool, or any other object placed upon the public sidewalk within fifty feet of any commercial property between Lytton Avenue and Channing Avenue from Alma Street to Emerson Street and the area between Lytton Avenue and Forest Avenue from Emerson Street to Webster Street during the hours between 11:00 a.m. and 11:00 p.m.
- (b) The prohibition set forth above in this section shall not apply to:
- (1) Any person sitting or lying down on the sidewalk due to a medical emergency;
  - (2) Any person who, as the result of a disability, utilizes a wheelchair or similar device to move about the public sidewalk;
  - (3) Any child accompanied by an adult who is seated in and using a stroller, or similar device, to move about the public sidewalk;
  - (4) Any person sitting or lying down upon a chair, bench or planter box wall located on the public sidewalk which is placed there by a public agency;

- (5) Any person sitting or lying down upon a chair or bench located upon the public sidewalk which is placed there by an abutting private property owner or tenant pursuant to a commercial sidewalk encroachment permit, temporary lease, or temporary street closure permit;
  - (6) Any person sitting or lying down while conducting, attending, or participating in an activity or event which is authorized by a lawfully issued temporary street closure permit or other permit issued by the city which permits use of the public sidewalk;
  - (7) Sitting on a public sidewalk within a bus zone while waiting for public or private transportation.
- (c) No person shall be cited under this section unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer that he or she is in violation of the prohibition in this section. (Ord. 4955 § 2, 2007; Ord. 4588 § 1, 1999; Ord. 4404 § 2, 1997)

### **San Bernardino**

#### 12.44.030 Streets, sidewalks and crosswalks to be kept free of obstructions.

[. . .]

- B. It is unlawful for any person to willfully and maliciously stand or sit in, obstruct or occupy any public street, sidewalk or crosswalk, or sit, stand in, obstruct or occupy any public stairway, escalator, elevator, passageway, or sidewalk in or immediately surrounding a public mall or building owned, operated or maintained by the City, or stand, sit in, occupy or obstruct the entrance or exit to and from any public hall, meeting place and public building within the boundaries of the City, so as in any manner to obstruct the free passage thereon or to hinder, molest or annoy any person while passing along the same.
- C. Any person who violates any provision of this section is guilty of an infraction, which upon conviction thereof is punishable in accordance with the provisions of Section 1.12.010 of this Code.

(Ord. MC-460, 5-13-85; Ord.3950 §1, 1980; Ord. 3711, 1978; Ord.120 §§1, 2, 1892.)<sup>183</sup>

### **C. SLEEPING**

#### **Roseville**

#### 13.12.020 Interfering with free passage—Actions prohibited.

[. . .]

- B. No person shall sit, lie or sleep in or upon any highway, alley, sidewalk or crosswalk or other public way open for pedestrian travel within the city. The provisions of this section do not prohibit sitting upon a public highway, alley, sidewalk, or crosswalk or other public way open for pedestrian travel if:
  - 1. Necessitated by the physical disability of such person; or
  - 2. Viewing a legally conducted parade; or
  - 3. On a bench lawfully installed for such purpose.
- C. Violation of this section may be charged as either an infraction or misdemeanor in the discretion of the city attorney. (Ord. 2191 § 1, 1989; Ord. 1384 § 2, 1978; prior code § 21.16.)<sup>184</sup>

#### **Pomona**

#### Sec. 46-606. - Unlawful areas to sleep.

It shall be unlawful for any person to sleep in the following places:

- (1) In or on any public street or sidewalk or in or on city walkways, paseos, or other public ways intended for pedestrian or vehicular use and owned or maintained by the city.
  - (2) On the grounds of city-owned or city-maintained buildings, facilities or other improved city property.
- (Ord. No. 3969, § 1(18.5-6), 11-18-2002)<sup>185</sup>

### **D. CAMPING**

#### **Palmdale**

#### 9.46.010 Unpermitted camping, lodging and sleeping prohibited.

- (A) No person shall camp, lodge, or sleep on a public street (including in a vehicle parked on a public street), on publicly owned property, and in public parks and other prohibited public places; provided, that nothing herein shall be construed to prohibit camping in public campgrounds pursuant to a permit or license authorized under federal, state or local statute or ordinance.
- (B) "Camping" means residing in or using any public street, publicly owned property, public park, or other prohibited public place for living accommodation, lodging, or sleeping purposes, as exemplified by remaining for prolonged or repeated periods of time not associated with ordinary use of the street, property, or public



place, with one's possessions or while storing one's possessions (including but not limited to clothing; sleeping bags, bed rolls, blankets, sheets, hammocks, or other sleeping implements; luggage; backpacks; kitchen utensils; cookware; and food or beverages), cooking or consuming meals, or lodging in a parked vehicle. These activities constitute camping when it reasonably appears in light of all the circumstances that a person is using the street, property, or place as a living, lodging, or sleeping accommodation regardless of his or her intent, or the nature of any other activities in which he or she might also be engaged.

- (C) "Prohibited public places" means any public place not designated as a public campground pursuant to federal, state, or local statute or ordinance and shall include the following:
- (1) Public streets, sidewalks, alleyways, passageways, paseos, and rights-of-way;
  - (2) Publicly owned property;
  - (3) Public parks, except as may be permitted under PMC 8.24.260;
  - (4) Public parking lots, whether privately owned or publicly owned;
  - (5) Public landscaped areas, whether publicly owned or privately owned and maintained pursuant to a public landscape easement;
  - (6) Private property that is readily accessible to the general public, or is otherwise open to common or general use or view;
  - (7) Vacant lots;
  - (8) Drainage culverts and basins. (Ord. 1199 § 1, 2002)<sup>186</sup>

### **Orange**

#### 12.48.045 - Camping Prohibition.

No person shall:

- A. Use the park for the purposes of camping, except by permit or under the auspices of a program of the Department of Community Services.
- B. Maintain, erect or permit the erection of any hut, shanty, tent, tarpaulin, or any other type of temporary structure under his control in any park except with a permit from the Department or as part of an approved recreation activity.

(Ord. 1-04 § 1, 2004)<sup>187</sup>

### **Pomona**

#### Sec. 46-603. - Unlawful camping.

Unless otherwise permitted by law, it is unlawful for any person to camp or use camp paraphernalia in or on any public park, street, sidewalk or other public property.

(Ord. No. 3969, § 1(18.5-3), 11-18-2002)<sup>188</sup>

## **E. LODGING IN VEHICLES**

### **Oxnard**

#### SEC. 8-26. SLEEPING IN MOTOR VEHICLES; EXCEPTIONS.

No person shall sleep in any motor vehicle or transportable living facility upon public property. This section shall not apply to registered guests, campers, or residents sleeping in vehicles at mobile home or recreational vehicle parks validly existing pursuant to city zoning requirements. This section shall not apply to sleeping in a motor vehicle or transportable living facility for a limited time, not exceeding four hours, under bona fide conditions of emergency or in the interest of public safety.

(64 Code, Sec. 18-124) (Ord. No. 2405)<sup>189</sup>

### **Garden Grove**

#### Section 10.56.180: Vehicles as Living Quarters Prohibited

1. No person shall occupy or use any camp car, camp trailer, camper, house car, mobile home, trailer coach, or other vehicle or trailer as a dwelling or for living or sleeping quarters upon any public street, right-of-way, alley, or other public property or nonresidential property within the city except in a public or private trailer park or camping ground. This Subsection shall not apply to any mobile home or trailer coach located on a permanent foundation pursuant to provisions of the Health and Safety Code.
2. For purposes of this Section "dwelling", "living", or "sleeping quarters" means that any of the vehicles described herein are being used by an individual or individuals as their basic residence in lieu of traditional building structures designed to house human beings including structures maintained in mobile home parks. This Section is not intended to prohibit individuals traveling from one community to another, resting in one of the

above described vehicles including sleeping while in direct transit from one location outside the city to another location outside the city.  
(Ordinance 2804 § 1, 2011; Ordinance 1814 § 2, 1983).<sup>190</sup>

## **F. BEGGING/PANHANDLING**

### **Chula Vista**

#### 9.21.010 Begging and soliciting alms prohibited.

It is unlawful for any person at any place within the City to beg or solicit alms or any other thing or money for his support or for the support of anyone else, or for any other purpose, or to make a business of begging or soliciting alms, money, or thing of value, either by word or act or combination thereof, as hereinafter defined. (Ord. 2337 § 2, 1989; Ord. 964 § 1, 1965; Ord. 874 § 2, 1964; prior code § 26A.1(A). Formerly 9.20.010).<sup>191</sup>

### **Oakland**

#### 5.18.030 - Soliciting for private needs.

No person shall solicit contributions for himself or herself in or upon any public street or public place in the city.  
(Prior code § 3-2.081)<sup>192</sup>

## **G. AGGRESSIVE PANHANDLING**

### **Pomona**

#### Sec. 30-608. - Aggressive panhandling and solicitation.

- (a) No panhandler or licensed solicitor shall solicit, ask or beg in an aggressive manner within the City of Pomona.
- (b) Aggressive manner shall mean any of the following:
  - (1) Approaching or speaking to a person, or following a person before, during or after soliciting, asking or begging, if that conduct is intended or is likely to cause a reasonable person to (i) fear bodily harm to oneself or to another, damage to or loss of property, or (ii) otherwise be intimidated into giving money or other thing of value;
  - (2) Intentionally touching or causing physical contact with another person without that person's consent in the course of soliciting, asking or begging;
  - (3) Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;
  - (4) Using violent or threatening gestures toward a person solicited either before, during, or after soliciting, asking or begging;
  - (5) Persisting in closely following or approaching a person, after the person solicited has been solicited and informed the solicitor by words or conduct that such person does not want to be solicited or does not want to give money or any other thing of value to the solicitor; or
  - (6) Using profane, offensive or abusive language which is inherently likely to provoke an immediate violent reaction either before, during, or after solicitation.

(Ord. No. 4034, § 3, 8-1-2005)<sup>193</sup>

## **H. FOOD SHARING**

### **San Bernardino**

#### § 33.0408 Nonpermanent Food Facilities.

- (a) *Permits Required.* Except as exempted herein, it shall be unlawful for any person to proclaim, hawk, peddle, cater, prepare, or serve food to the public from any nonpermanent food facility, as defined in the Health and Safety Code, without first applying for, receiving and retaining an unexpired, unsuspended and unrevoked permit from DEHS for each, and paying fees to DEHS in those amounts specified in the San Bernardino County Code Schedule of Fees.

[ . . . ]

(Ord. 3105, passed --1986; Am. Ord. 3848, passed --2002; Am. Ord. 4158, passed --2012; Am. Ord. 4172, passed --2012; Am. Ord. 4196, passed --2013)<sup>194</sup>

### **Santa Monica**

#### 5.06.020 Food distribution on public streets and sidewalks prohibited without City authorization.

No person shall distribute or serve food to the public on a public street or sidewalk without City authorization in the form of a vending permit, use permit, outdoor dining license or community event permit. However, no permit or license shall be required for a noncommercial food distribution that does not interfere with the free use of the sidewalk or street by pedestrian or vehicular traffic.

Any person violating this Section shall be guilty of a misdemeanor which shall be punishable by a fine not exceeding one thousand dollars per violation, or by imprisonment in the County Jail for a period not exceeding six months, or by both such fine and imprisonment. (Added by Ord. No. 2055 § 1, adopted 10/22/02; amended by Ord. No. 2117 § 2, adopted 2/24/04).<sup>195</sup>

**Thousand Oaks**

**Sec. 5-8.08. Regulation of camping.**

- (e) Cooking. No person shall cook food on any public place, including but not limited to, designated open space, public parks or parking lots or other public areas. This section shall not prohibit cooking in areas designated for such purposes.<sup>196</sup>

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## NOTES

<sup>1</sup> In this report, we do not analyze a number of other municipal code sections that are also used against homeless people. Restrictions on public urination, public defecation, and scavenging through dumpsters are omitted because they ban specific activities rather than homeless people's overall presence in public. We do not report our findings regarding restrictions on trespassing in public places and storing property in public because these bans constitute a small percentage of the total anti-homeless laws (less than eight percent) and are not easily compared to the national data gathered by the National Law Center on Homelessness and Poverty.

<sup>2</sup> 610, 042 people were homeless on a single night in January 2013. MEGHAN HENRY ET AL., U.S. DEP'T OF HOUS. AND URBAN DEV., 2013 ANNUAL HOMELESS REPORT (AHAR) TO CONGRESS PART 1: POINT-IN-TIME ESTIMATES OF HOMELESSNESS 1, 8 (Larry Buron et al. eds., 2013), *available at* <https://www.hudexchange.info/resources/documents/AHAR-2013-part1.pdf> (last visited Nov. 22, 2014); Maria Foscarinis, *Homelessness in America: A Human Rights Crisis*, 13 J.L.SOC'Y 515, 516-17 (2012).

<sup>3</sup> HUD recognizes four categories of homelessness: (1) Individuals and families who lack a fixed, regular, and adequate nighttime residence and includes a subset for an individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or a place not meant for human habitation immediately before entering that institution; (2) Individuals and families who will imminently lose their primary nighttime residence; (3) Unaccompanied youth and families with children and youth who are defined as homeless under other federal statutes who do not otherwise qualify as homeless under this definition; or (4) Individuals and families who are fleeing, or are attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member. U.S. DEP'T OF HOUS. AND URBAN DEV., EXPANDING OPPORTUNITIES TO HOUSE INDIVIDUALS AND FAMILIES EXPERIENCING HOMELESSNESS THROUGH THE PUBLIC HOUSING (PH) AND HOUSING CHOICE VOUCHER (HCV), *available at* <http://portal.hud.gov/hudportal/documents/huddoc?id=PIH2013-15HomelessQAs.pdf> (last visited Dec. 1, 2014).

<sup>4</sup> Foscarinis, *supra* note 2, at 516-17.

<sup>5</sup> TRISTIA BAUMAN, NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, NO SAFE PLACE: THE CRIMINALIZATION OF HOMELESSNESS IN U.S. CITIES 13 (2014).

<sup>6</sup> *Id.* at 12.

<sup>7</sup> This annual number is based on the U.S. Department of Education's count of homeless children in public schools and on 2013 U.S. Census data. THE NAT'L CENTER ON FAMILY HOMELESSNESS, AMERICA'S YOUNGEST OUTCASTS: A REPORT CARD ON CHILD HOMELESSNESS 6 (2014), *available at* <http://www.homelesschildrenamerica.org/mediadocs/280.pdf> (last visited Jan. 13, 2015).

<sup>8</sup> PETER WITTE, NAT'L ALLIANCE TO END HOMELESSNESS, STATE OF HOMELESSNESS IN AMERICA 2012 38 (Catherine An et al. eds., 2012), *available at* <http://www.endhomelessness.org/library/entry/the-state-of-homelessness-in-america-2012> (last visited Nov. 22, 2014).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* President Obama and U.S. Department of Veterans Affairs Secretary Eric Shinseki are committed to ending veteran homelessness by the end of 2015. *See generally* [http://www.va.gov/homeless/about\\_the\\_initiative.asp](http://www.va.gov/homeless/about_the_initiative.asp).

<sup>12</sup> *See* THE U.S. CONFERENCE OF MAYORS, HUNGER AND HOMELESSNESS SURVEY: A STATUS REPORT ON HUNGER AND HOMELESSNESS IN AMERICA'S CITIES 3 (2013), *available at* <http://www.usmayors.org/pressreleases/uploads/2013/1210-report-HH.pdf> (last visited Nov. 22, 2014).

<sup>13</sup> THE NAT'L CENTER ON FAMILY HOMELESSNESS, *supra* note 7, at 6.

<sup>14</sup> NAT'L LAW CENTER ON HOMELESSNESS & POVERTY & L.A. CMTY. ACTION NETWORK, RACIAL DISCRIMINATION IN HOUSING AND HOMELESSNESS IN THE UNITED STATES: A REPORT TO THE U.N. COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION 1 (2014), *available at* [http://www.nlchp.org/CERD\\_Housing\\_Report\\_2014.pdf](http://www.nlchp.org/CERD_Housing_Report_2014.pdf) (last visited Jan. 13, 2015).

<sup>15</sup> RALPH DA COSTA NUNEZ ET AL., INSTITUTE FOR CHILDREN, POVERTY & HOMELESSNESS, INTERGENERATIONAL DISPARITIES EXPERIENCED BY HOMELESS BLACK FAMILIES 1 (2012), *available at* [http://www.icphusa.org/filelibrary/ICPH\\_Homeless%20Black%20Families.pdf](http://www.icphusa.org/filelibrary/ICPH_Homeless%20Black%20Families.pdf) (last visited Dec. 28, 2014).

<sup>16</sup> HENRY ET AL., *supra* note 2, at 8.

<sup>17</sup> THE NAT'L CENTER ON FAMILY HOMELESSNESS, *supra* note 7, at 8.

<sup>18</sup> In 2012, 38 percent of homeless people were unsheltered across the nation. But in California in 2013, 66.7 percent of the homeless population was unsheltered. HENRY ET AL., *supra* note 2, at 9.

<sup>19</sup> WITTE, *supra* note 8, at 15.

<sup>20</sup> *Id.* at 18.

<sup>21</sup> THE NAT'L CENTER ON FAMILY HOMELESSNESS, *supra* note 7, at 27.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at 17.

<sup>24</sup> W. REG'L ADVOCACY PROJECT, WITHOUT HOUSING: DECADES OF FEDERAL HOUSING CUTBACKS, MASSIVE HOMELESSNESS AND POLICY FAILURES 4 (Michael Anderson et al., eds., 2d ed. 2010), *available at* <http://wraphome.org/downloads/2010%20Update%20Without%20Housing.pdf> (last visited Dec. 5, 2014).

<sup>25</sup> JOHN M. QUIGLEY ET AL., HOMELESSNESS IN CALIFORNIA 1, 3 (Pub. Policy Inst. of Cal. 2001), *available at* [http://urbanpolicy.berkeley.edu/pdf/ppic\\_homeless.pdf](http://urbanpolicy.berkeley.edu/pdf/ppic_homeless.pdf) (last visited Dec. 28, 2014).

<sup>26</sup> Lynda Carson, *Berkeley Housing Authority is Hit by Sequestration Cuts*, SAN FRANCISCO BAY AREA INDEPENDENT MEDIA CENTER (Jun. 9, 2013, 9:16 PM), <http://www.indybay.org/newsitems/2013/06/09/18738201.php>; NAT'L ALLIANCE TO END HOMELESSNESS, IMPACT OF SEQUESTRATION ON FEDERAL HOMELESSNESS ASSISTANCE 1 (2012), *available at* [http://b.3cdn.net/naeh/86eabd607257abbd42\\_sam6bhwn5.pdf](http://b.3cdn.net/naeh/86eabd607257abbd42_sam6bhwn5.pdf).

<sup>27</sup> *Written Testimony of Secretary Shaun Donovan Before the Senate Committee on Appropriations on the Impacts of Sequestration*, U.S. DEP'T OF HOUS. AND URBAN DEV., <http://portal.hud.gov/hudportal/documents/huddoc?id=sequesterftestimony.pdf> (last visited Dec. 28, 2014); Corp. for Supportive Hous., *As Effects of Sequestration Begin to Impact Communities*, HUD Issues 2012 McKinney Renewals (Mar. 20, 2013), <http://www.csh.org/2013/03/as-effects-of-sequestration-begin-to-impact-communities-hud-issues-2012-mckinney-renewals/>.

<sup>28</sup> DOUGLAS RICE, CTR. ON BUDGET AND POLICY PRIORITIES, SEQUESTRATION COULD CUT HOUSING VOUCHERS FOR AS MANY AS 185,000 LOW-INCOME FAMILIES BY THE END OF 2014 1 (2013), *available at* <http://www.cbpp.org/cms/?fa=view&id=4044> (last visited Dec. 28, 2014).

<sup>29</sup> *National and State Housing Data Fact Sheets: Sequestration Cuts in Housing Choice Vouchers*, CENTER ON BUDGET AND POL'Y PRIORITIES (Nov. 20, 2014), <http://www.cbpp.org/cms/index.cfm?fa=view&id=3586#map> (last visited Jan. 31, 2015).

<sup>30</sup> QUIGLEY ET AL., *supra* note 25, at 3; CORP. FOR SUPPORTIVE HOUS., APPROACHES FOR ENDING CHRONIC HOMELESSNESS IN CALIFORNIA THROUGH A COORDINATED SUPPORTIVE HOUSING PROGRAM 6 (2011), *available at* <http://www.csh.org/wp-content/uploads/2011/12/ApproachesforEndingCA.pdf> (last visited Dec. 29, 2014).

<sup>31</sup> Taylor Pospichel, *Are California's Homeless Children Being Left Behind?: Analyzing the Implementation of McKinney-Vento Education Rights in California*, 10 HASTINGS RACE & POVERTY L.J. 121, 125 (2013).

<sup>32</sup> *Id.*

<sup>33</sup> WITTE, *supra* note 8, at 24. Seventy-eight percent of California households with incomes below the federal poverty level paid more than half of their income toward rent in 2010. Farida Ali, *Limiting the Poor's Right to Public Space: Criminalizing Homelessness in California*, 21 GEO. J. ON POVERTY L. & POL'Y 197, 204 (2014).

<sup>34</sup> U.S. Census Bureau, *Housing Vacancies and Homeownership (CPS/HVS): Third Quarter 2014*, <http://www.census.gov/housing/hvs/files/qtr314/q314def.html> (last visited Dec. 29, 2014).

<sup>35</sup> QUIGLEY ET AL., *supra* note 25, at vii, ix.

<sup>36</sup> CORP. FOR SUPPORTIVE HOUS., APPROACHES FOR ENDING CHRONIC HOMELESSNESS IN CALIFORNIA, *supra* note 30, at 6.

<sup>37</sup> Specifically, on a given night in 2013, 66.7 percent of the homeless population in California was unsheltered. HENRY ET AL., *supra* note 2, at 9.

<sup>38</sup> BAUMAN, *supra* note 5, at 15.

<sup>39</sup> Harry Simon, *Towns Without Pity: A Constitutional and Historical Analysis of Official Efforts to Drive Homeless Persons From American Cities*, 66 TUL. L. REV. 632, 638 (1992). Various statutes punished “common railers and brawlers,” “stubborn children,” “fortune tellers,” and “frequenters of ‘low dens,’” among others. *Id.*

<sup>40</sup> JOSIAH HENRY BENTON, WARNING OUT IN NEW ENGLAND 8 (W.B. Clarke Co. 1911).

<sup>41</sup> See generally KATHERINE BECKETT & STEVE HERBERT, BANISHED: THE NEW SOCIAL CONTROL IN URBAN AMERICA (2009).

<sup>42</sup> James W. Loewen, *Sundown Towns and Counties: Racial Exclusion in the South*, 15 SOUTHERN CULTURES 22, 25, 28-29 (2009).

<sup>43</sup> *Id.* at 23. For instance, Taft, a small town near Bakersfield in California, had a sign in 1930 reading: “Read n\*\*\*\*\* and run; if you can’t read, run anyway. N\*\*\*\*\* don’t let the sun go down on you in Taft.” JAMES W. LOEWEN, *SUNDOWN TOWNS: A HIDDEN DIMENSION OF AMERICAN RACISM* 344 (The New Press 2005).

<sup>44</sup> Loewen, *Sundown Towns and Counties*, *supra* note 42, at 38-42.

<sup>45</sup> Pub. Broad. Serv., *General Article: Mass Exodus from the Plains*, PBS.ORG (2013), <http://www.pbs.org/wgbh/americanexperience/features/general-article/dustbowl-mass-exodus-plains/> (last visited Nov. 22, 2014).

<sup>46</sup> “Every person, firm or corporation, or officer or agent thereof that brings or assists in bringing into the State any indigent person who is not a resident of the State, knowing him to be an indigent person, is guilty of a misdemeanor.” CAL. WELF. & INST. CODE § 2615, *invalidated by* *Edwards v. California*, 314 U.S. 160, 165-66 (1941).

<sup>47</sup> *Edwards v. California*, 314 U.S. 160 (1941).

<sup>48</sup> SUSAN M. SCHWEIK, *THE UGLY LAWS: DISABILITY IN PUBLIC* 2 (N.Y.U. Press 2009).

<sup>49</sup> *Id.* at 9.

<sup>50</sup> *Id.*

<sup>51</sup> JEFFREY SELBIN ET AL., DOES SIT-LIE WORK: WILL BERKELEY’S “MEASURE S” INCREASE ECONOMIC ACTIVITY AND IMPROVE SERVICES TO HOMELESS PEOPLE? (2012), *available at* [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2165490](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2165490) (last visited Dec. 29, 2014).

<sup>52</sup> See *id.* at 4-7.

<sup>53</sup> Cities can also use “quality-of-life” laws to target racial minorities and other marginalized groups, but because our work focuses on homeless individuals, the term “anti-homeless” is appropriate for the purposes of this report.

<sup>54</sup> *Papachristou v. City of Jacksonville*, 405 U.S. 156, 171 (1972).

<sup>55</sup> *Id.* at 162.

<sup>56</sup> *Id.* at 170.

<sup>57</sup> *Roulette v. City of Seattle*, 97 F.3d 300 (1996). The Ninth Circuit upheld the Seattle law on substantive due process grounds, finding that the ordinance would be constitutional as applied in a large fraction of cases. *Id.* at 306. The court also rejected the plaintiff’s claim that prohibiting sitting or lying on the sidewalk limited their First Amendment right to free expression. *Id.* at 305. Judge Pregerson, who would later write the majority decisions in *Jones v. City of L.A.*, 444 F.3d 1118 (9th Cir. 2006), and *Desertrain v. City of L.A.*, 754 F.3d 1147 (9th Cir. 2014), dissented in *Roulette*. 97 F.3d at 307-311.

<sup>58</sup> *E.g.*, *Amster v. City of Tempe*, 248 F.3d 1198, 1199 (9th Cir. 2001) (upholding the constitutionality of a local law that prohibited sitting or lying in a commercial district between the hours of 7:00 a.m. and 10:00 p.m. Sunday-Thursday, and 7:00 a.m. and 1:00 a.m. Friday and Saturday). City-wide restrictions that can be enforced 24 hours a day have proven to be more problematic. Since *Roulette*, the Ninth Circuit has held that two Los Angeles anti-homeless statutes were unconstitutional: *Jones v. City of L.A.*, 444 F.3d 1118 (9th Cir. 2006), and *Desertrain v. City of L.A.*, 754 F.3d 1147 (9th Cir. 2014). See *infra* note 157 and accompanying text, and notes 145, 160, 165-66 and accompanying text, respectively.

<sup>59</sup> CAL. PENAL CODE § 647(e) (West 2013). The full section reads: “[E]very person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor: . . . (e) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it.”

<sup>60</sup> Cities can, and do, use other sections of the California Penal Code to remove homeless people from the public eye, including: §§ 602(m), 602.1(a), 602.1(b), 647(c), 647(h), and 647c. *See infra* Part III (providing case studies of cities that criminalize homelessness using the California Penal Code).

<sup>61</sup> BAUMAN, *supra* note 5.

<sup>62</sup> A prior team of clinic students initially collected code data in the fall of 2013. We conducted a second round of research in fall 2014 using the same methodology. When reviewing each of the 58 municipal codes, we focused primarily on the following sections (and their variations): “Health and Safety,” “Public Peace, Morals and Welfare,” “Vehicles and Traffic,” and “Streets, Sidewalks and Public Places.” Most of the municipal codes had search functions. We used the following search terms to identify codes: sleeping, sleep, camping, camp, sitting, lying, lodge, vehicle, loiter, loitering, loafing, vagrancy, obstruction, trespass, storage, bathing, urination, defecation, scavenging, begging, aggressive, panhandling, solicitation, and food. This methodology may miss code sections that use synonyms for these search terms. However, conducting research in two iterations has likely minimized the number of missed codes. We also collected census data on city population, demographic, and economic indicators where available.

<sup>63</sup> 106,715 of 136,826 individuals reside in the 58 cities according to 2013 point-in-time counts. HENRY ET AL., *supra* note 2, at 8; *Homelessness Data Exchange*, U.S. DEP’T OF HOUS. AND URBAN DEV., <http://www.hudhdx.info> (last visited Nov. 25, 2014) (city- and county-specific counts reported to HUD).

<sup>64</sup> The 58 cities do not represent a random sample of California communities. By primarily analyzing California’s largest cities, this report focuses on criminalization practices in urban settings. Also, by including smaller communities with active WRAP affiliates, the report oversamples cities that have historically been identified with homeless issues and may be relatively more likely to have municipal laws criminalizing homelessness.

<sup>65</sup> 14 percent of the 500 laws analyzed prohibit more than one type of activity. See Appendix A for a count of anti-homeless laws in the 58 cities.

<sup>66</sup> For sample wording of food-sharing laws in California cities, see Appendix B.

<sup>67</sup> Rancho Cucamonga was the sole city studied without this type of restriction.

<sup>68</sup> In cases where laws were associated with multiple dates (reflecting a series of amendments), we used the earliest date for the purpose of this analysis. This methodology biases the analysis toward overestimating the proportion of laws passed in earlier time periods.

<sup>69</sup> The final bar (2010-2019) includes 55 laws enacted through October 2014. The remaining 55 laws shown in light red are a prorated projection of the number of codes expected by the end of the decade if current trends continue.

<sup>70</sup> *Edwards v. California*, 314 U.S. 160 (1941). *See supra* note 47 and accompanying text.

<sup>71</sup> *Papachristou v. City of Jacksonville*, 405 U.S. 156, 168-69 (1972). *See supra* notes 54-56 and accompanying text.

<sup>72</sup> NAT’L COAL. FOR THE HOMELESS, SHARE NO MORE: THE CRIMINALIZATION OF EFFORTS TO FEED PEOPLE IN NEED 8-21 (Michael Stoops ed., 2014), available at <http://nationalhomeless.org/wp-content/uploads/2014/10/Food-Sharing2014.pdf> (last visited Dec. 29, 2014).

<sup>73</sup> BAUMAN, *supra* note 5.

<sup>74</sup> This comparison between California and the rest of the nation does not control for city size. Because 58 cities come from California alone and 166 cities represent the remaining 49 states, the 166 comparison cities are more likely to be large, prominent population centers. Based on patterns observed in California, larger cities are likely to have a higher number of anti-homeless laws. If the California-U.S. comparison controlled for population size, the high prevalence of anti-homeless laws in California might be even more pronounced relative to the rest of the country.

<sup>75</sup> The UCR numbers in this report are aggregated by the University of Michigan. *Uniform Crime Reporting Program Resource Guide*, NATIONAL ARCHIVE OF CRIMINAL JUSTICE DATA, <http://www.icpsr.umich.edu/icpsrweb/content/NACJD/guides/ucr.html> (last visited Nov. 25, 2014).

<sup>76</sup> *Crime in the United States 2012: Offense Definitions*, FEDERAL BUREAU OF INVESTIGATION, <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/offense-definitions> (last visited Dec. 2, 2014). Note that the definition of “vagrancy” and the specific codes included in the count may vary by agency.

<sup>77</sup> CAL. DEP’T OF JUSTICE, CODEBOOK FOR THE 2003-2012 ARRESTS DATA FILE 5 (2012), *available at* [http://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/stats/arrests\\_codebook.pdf](http://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/stats/arrests_codebook.pdf) (last visited Nov. 24, 2014) (noting that minor agencies may not report each year due to staffing shortages, mergers with neighboring agencies, etc.).

<sup>78</sup> *Id.* The OAG numbers in this report come from the dataset from the California Department of Justice. CAL. DEP’T OF JUSTICE, CJSC STATISTICS: ARRESTS, <http://oag.ca.gov/crime/cjsc/stats/arrests> (last visited Nov. 24, 2014). The state-level penal codes included in the “disorderly conduct” category are as follows: CAL. PENAL CODE §§ 647, 647(c), 647(e), 647(h), 647b, and 653b(a) (West 2013).

<sup>79</sup> The two arrest counts fall within one percent of one another for 2003-2012. Note that the OAG’s definition of “disorderly conduct” differs from the definition used by UCR. CAL. DEP’T OF JUSTICE, CODEBOOK FOR THE 2003-2012 ARRESTS, *supra* note 77; *Crime in the United States 2012: Offense Definitions*, *supra* note 76.

<sup>80</sup> CAL. DEP’T OF JUSTICE, CODEBOOK FOR THE 2003-2012 ARRESTS, *supra* note 77, at 5 (“Not all arrests result in persons being jailed. Arrestees may be released by the arresting agency, post bail, or be released on their own recognizance to appear in court at a later date. Some are issued citations, much like traffic tickets, which direct them to appear in court at a later date.”).

<sup>81</sup> UCR data are publicly available from 1980 to 2012, and OAG data are publicly available from 2003 to 2013.

<sup>82</sup> 2013 UCR numbers are not yet published, so the 2013 count comes from the OAG dataset. Again, since the two sources fall within one percent of each other for 2003-2012, this number is directly comparable.

<sup>83</sup> CAL. EMP’T DEV. DEP’T, SEASONALLY-ADJUSTED LABOR FORCE DATA, 1990-CURRENT (2014), *available at* [http://www.labormarketinfo.edd.ca.gov/LMID/Labor\\_Force\\_Unemployment\\_Data.html](http://www.labormarketinfo.edd.ca.gov/LMID/Labor_Force_Unemployment_Data.html) (last visited Jan. 16, 2015); THE NAT’L BUREAU OF ECON. RESEARCH, U.S. BUSINESS CYCLE EXPANSIONS AND CONTRACTIONS (2012), *available at* [http://www.nber.org/cycles/US\\_Business\\_Cycle\\_Expansions\\_and\\_Contractions\\_20120423.pdf](http://www.nber.org/cycles/US_Business_Cycle_Expansions_and_Contractions_20120423.pdf) (last visited Jan. 16, 2015).

<sup>84</sup> *Crime in the United States 2012: Offense Definitions*, *supra* note 76.

<sup>85</sup> The other cities were Los Angeles, San Jose, Fresno, Santa Barbara, and Nevada City. We were unable to obtain sufficient data from Los Angeles and San Jose. We obtained more data from Fresno, Santa Barbara, and Nevada City, but exclude them here for purposes of brevity. The three case studies included sufficiently examine enforcement practices related to municipal anti-homeless codes.

<sup>86</sup> APPLIED SURVEY RESEARCH, 2013 SAN FRANCISCO HOMELESS POINT-IN-TIME COUNT & SURVEY COMPREHENSIVE REPORT 8 (2013), *available at* <http://www.sfgov3.org/modules/showdocument.aspx?documentid=4819> (last visited Nov. 25, 2014).

<sup>87</sup> The 10 codes that criminalize standing, sitting, and resting in public places are: S.F., CAL., ADMIN. CODE § 80; S.F., CAL., PARK CODE § 3.21; S.F., CAL., POLICE CODE §§ 22(a), 23(a), 25(a)-(b), art. 2, §§ 121, 124.2, 168, art. 13, § 912; S.F., CAL., PUB. WORKS CODE art. 15, § 723. The six codes that criminalize sleeping, camping, and lodging in a public place or vehicle are: S.F., CAL., PARK CODE §§ 3.12-3.13; S.F., CAL., POLICE CODE art. 1.1 § 97; S.F., CAL., PORT CODE §§ 2.9-2.10; S.F., CAL., TRANS. CODE § 7.2.54. The seven codes that prohibit begging and panhandling are: S.F., CAL., ADMIN. CODE app. 22, 69; S.F., CAL., PARK CODE § 3.10; S.F., CAL., POLICE CODE art. 2 § 120-2, art. 13, §§ 864, 954, 955.

<sup>88</sup> HSA collects data on police citations issued under a set of “quality-of-life” laws. The San Francisco Police Department does not log citation data directly. Instead, police officers make copies of citations issued and send them to the HSA for data entry. John Murray, the HSA employee in charge of compiling citation data, indicated that police occasionally forget to send copies of all citations, and that certain citations are not logged by the HSA because they are illegible. Due to these factors, the HSA data used in this report likely underreport the total number of citations issued by the San Francisco Police Department.

<sup>89</sup> San Francisco Municipal Code Section 25 is not included in the Section II analysis because it prohibits trespassing on business property. However, San Francisco businesses rely on this section to prohibit people from resting on sidewalks in front of business entrances. For this reason, it is included in the enforcement data.



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<sup>90</sup> S.F. HUMAN SERVS. AGENCY, YEAR TO YEAR COMPARISON, 2006-2013 (2014). This data set includes data points from 2014. S.F., CAL., POLICE CODE §§ 22-23.

<sup>91</sup> S.F. HUMAN SERVS. AGENCY, *supra* note 90; S.F., CAL., PARK CODE §§ 3.12, 3.13, respectively.

<sup>92</sup> Telephone interview with Michael Nevin, Lieutenant, San Francisco Police Department (Oct. 23, 2014).

<sup>93</sup> ELAINE FORBES ET AL., LEGISLATIVE ANALYST REPORT – PROCESSING ‘QUALITY OF LIFE’ VIOLATIONS (2002), available at <http://www.sfbos.org/index.aspx?page=1278> (last visited Nov. 25, 2014).

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> W. REG’L ADVOCACY PROJECT, CALIFORNIA OUTREACH DATA, QUESTION 1 (forthcoming 2015).

<sup>98</sup> Telephone interview with Michael Nevin, Lieutenant, *supra* note 92.

<sup>99</sup> W. REG’L ADVOCACY PROJECT, CALIFORNIA OUTREACH DATA, *supra* note 97.

<sup>100</sup> City point-in-time counts are included for reference throughout this section. For a discussion of the limitations of point-in-time counts, see *supra* notes 3-7 and accompanying text.

<sup>101</sup> NAT’L COAL. FOR THE HOMELESS, TENT CITIES IN AMERICA: A PACIFIC COAST REPORT 36-37 (2010), available at <http://nationalhomeless.org/wp-content/uploads/2014/06/Tent-Cities-Report-FINAL-3-10-10.pdf> (last visited Nov. 25, 2014).

<sup>102</sup> The five codes that criminalize standing, sitting, and resting public places are: SACRAMENTO, CAL., MUN. CODE §§ 9.04.030, 12.08.150, 12.24.020, 12.24.110, 12.72.090. The three codes that criminalize sleeping, camping, and lodging in a public place or vehicle are: SACRAMENTO, CAL., MUN. CODE §§ 10.36.100, 12.52.030, 12.72.060. The three codes that criminalize begging and panhandling are: SACRAMENTO, CAL., MUN. CODE §§ 5.116.210, 5.120.030, 12.44.220.

<sup>103</sup> Sacramento Municipal Code Section 12.52.030 reads: “It is unlawful and a public nuisance for any person to camp, occupy camp facilities, or use camp paraphernalia in the following areas: any public property; or any private property.”

<sup>104</sup> The Tommy Clinkenbeard Legal Clinic operates out of Loaves and Fishes, a local non-profit that offers services to the homeless community.

<sup>105</sup> Telephone interview with Ron Blubaugh, Director, Tommy Clinkenbeard Legal Clinic, Loaves and Fishes (Oct. 16, 2014).

<sup>106</sup> Data for January 1, 2004 – September 1, 2014 come directly from John Havicon, the Chief Ranger of Sacramento County Regional Parks. E-mail from John Havicon, Chief, Park Ranger Division, Sacramento County Regional Parks, to Marina Fisher (Sept. 23, 2014) (on file with author).

<sup>107</sup> Municipal code citations constitute nearly all of the citations plotted on the graph. In 2012, for instance, only five of 1,181 total illegal camping citations were issued under state code. John Havicon, the Chief Ranger, explained that this is because “the County District Attorney considers [state illegal lodging code] a low priority and will generally drop the charge, so there is no incentive to issue the citations.” *Id.*

<sup>108</sup> Illegal camping citations accounted for 56 percent of infraction/misdemeanor citations. We aggregated the data from the following source: *Ranger Activity Reports*, SACRAMENTO COUNTY REGIONAL PARKS, <http://www.regionalparks.sacounty.net/Rangers/Pages/Latest-Ranger-Activity-Data.aspx> (last visited Nov. 25, 2014).

<sup>109</sup> Telephone interview with Ron Blubaugh, *supra* note 105.

<sup>110</sup> Telephone interview with Paula Lomazzi, Executive Director, Sacramento Homeless Organizing Committee (Oct. 10, 2014).

<sup>111</sup> See *Illegal-Camping Crackdown, Tasers, U.N. Reports: Sacramento Homeless Community Under Attack?*, NEWSREVIEW.COM, <http://www.newsreview.com/sacramento/illegal-camping-crackdown-tasers-u-n-reports/content?oid=5102710> (last visited Nov. 25, 2014).

<sup>112</sup> E-mail from John Havicon, Chief Ranger, Sacramento County Department of Regional Parks, to Marina Fisher (Sept. 24, 2014) (on file with author).

<sup>113</sup> Telephone interview with Paula Lomazzi, *supra* note 110.

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<sup>114</sup> Telephone interview with Ron Blubaugh, *supra* note 105.

<sup>115</sup> *Id.*

<sup>116</sup> W. REG'L ADVOCACY PROJECT, CALIFORNIA OUTREACH DATA, *supra* note 97.

<sup>117</sup> *Id.*; Telephone interview with Ron Blubaugh, *supra* note 105.

<sup>118</sup> 2013 estimate, according to the U.S. Census website. *San Diego (city), California Quick Facts*, U.S. CENSUS BUREAU (Jul. 8, 2014, 6:42:58 EDT), available at <http://quickfacts.census.gov/qfd/states/06/0666000.html> (last visited Nov. 25, 2014).

<sup>119</sup> 2013 SAN DIEGO REGIONAL TASK FORCE ON THE HOMELESS, 2013 SAN DIEGO REGIONAL HOMELESS PROFILE 9 (2013), available at [http://www.rtfhsd.org/wp/wp-content/uploads/2013/12/2013\\_RHP\\_SummaryFinal\\_v12.26.2013\\_2.pdf](http://www.rtfhsd.org/wp/wp-content/uploads/2013/12/2013_RHP_SummaryFinal_v12.26.2013_2.pdf) (last visited Dec. 2, 2014).

<sup>120</sup> The four codes that criminalize standing, sitting, and resting in public places are: SAN DIEGO, CAL., MUN. CODE §§ 52.20, 52.25, 52.3001, 63.0120. The five codes that criminalize sleeping, camping, and lodging in public places are: SAN DIEGO, CAL., UNIFIED PORT DISTRICT CODE § 8.18; SAN DIEGO, CAL., MUN. CODE §§ 35.0101, 63.0102(b)(12), 63.20.11, 86.0137. The two codes that criminalize begging and panhandling are: SAN DIEGO, CAL., MUN. CODE §§ 52.4001, 52.7004.

<sup>121</sup> Steve Binder, *The Homeless Court Program: Taking the Court to the Streets* (American Bar Association Commission on Homelessness and Poverty, eds. 2002) 279, available at [http://www.nchv.org/images/uploads/BinderArticle\(3\).pdf](http://www.nchv.org/images/uploads/BinderArticle(3).pdf) (last visited Dec. 3, 2014).

<sup>122</sup> Telephone interview with Steve Binder, Deputy Public Defender, San Diego Office of the Primary Public Defender (Oct. 6, 2014).

<sup>123</sup> Telephone interview with Vanessa Jimenez, Deputy Public Defender, San Diego Office of the Primary Public Defender (Oct. 22, 2014).

<sup>124</sup> Binder, *The Homeless Court Program*, *supra* note 121, at 279.

<sup>125</sup> Data for 1994-2006 come directly from San Diego Police Department citation and arrest statistics for PC 647(j), which was later changed to 647(e). SAN DIEGO POLICE DEP'T, PC 647(J) CITATIONS ISSUED 1988-2007 (2008). 2002 and 2003 San Diego Police Department figures are annualized estimates. Evaluation Data for 2007-2013 come from the OAG "Disorderly Conduct" enforcement data for San Diego. CAL. DEP'T OF JUSTICE, CJSC STATISTICS: ARRESTS, *supra* note 78. In 2003-2006, SDPD and OAG numbers fall within three percent of one another, indicating the reliability of OAG numbers for measuring PC 647(e) enforcement in San Diego. Numbers from 2000 represent citations only. NANCY KERRY & SUSAN PENNELL, SAN DIEGO ASSOC. OF GOV'TS, SAN DIEGO HOMELESS COURT PROGRAM: A PROCESS AND IMPACT EVALUATION 12 (2001).

<sup>126</sup> Telephone interview with Rick Schnell, Sergeant, San Diego Police Department (Oct. 16, 2014).

<sup>127</sup> Telephone interview with Vanessa Jimenez, *supra* note 123.

<sup>128</sup> *Id.*

<sup>129</sup> *Id.*

<sup>130</sup> SAN DIEGO POLICE DEPARTMENT, ARRESTS RECORDS REPORT FOR PC 647(E), AUGUST – SEPTEMBER 2014 (2014). These data were obtained after submitting a California Public Records Act (CPRA) request to the San Diego Police Department on September 30, 2014.

<sup>131</sup> These 12 arrests were made under PC 602(m), PC 602.1(a), PC 602.1(b), and PC 647(h).

<sup>132</sup> Transcript of Settlement Conference Before the Honorable William McCurine, Jr., United States Magistrate Judge, *Spencer v. City of San Diego*, No. 3:04-cv-02314 (S.D. Cal. Feb. 21, 2007), available at <http://ckslaw.com/wp-content/uploads/2014/07/spencer.pdf> (last visited Dec. 3, 2014). PC 647(e) has not been wholly eliminated from the San Diego Police Department's toolkit. The parties modified the terms of their 2007 settlement to permit police officers to enforce PC 647(e) in San Diego's Downtown Area in 2011 if shelter beds were available. Supplement to Stipulation and Order Modifying Settlement Agreement and Order Thereon, *Spencer v. City of San Diego*, No. 3:04-cv-02314 (S.D. Cal. Feb. 8, 2011), available at <http://www.sandiego.gov/citycouncil/cd2/news/pdf/110209ordermodifyingterms.pdf> (last visited Dec. 3, 2014).

<sup>133</sup> Telephone interview with Rick Schnell, *supra* note 126; Jeanette Steele, *City Allows Sleeping in Public: Homeless People Won't Be Ticketed*, SAN DIEGO UNION-TRIBUNE, Feb. 22, 2007.

<sup>134</sup> Telephone interview with Rick Schnell, *supra* note 126.

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<sup>135</sup> Telephone interview with Steve Binder, *supra* note 122.

<sup>136</sup> Telephone interview with Vanessa Jimenez, *supra* note 123.

<sup>137</sup> San Diego Unified Port District Code Section 8.18 was enacted in 1966 and last amended in 2008. San Diego Unified Port District Code Section 8.18(a) reads: (a) Purpose. The tidelands of the District should be readily accessible and available to visitors and the public at large. The use of tidelands areas for camping purposes or storage of personal property interferes with the rights of others to use the tidelands in ways they were intended. The purpose of this Article is to maintain the tidelands within the District in a clean and accessible condition.

<sup>138</sup> Data for January 1, 2004 – September 30, 2014 come directly from Lorna Hicks, the Police Records Supervisor for the Port of San Diego. E-mail from Lorna Hicks, Police Records Supervisor, Port of San Diego, to Marina Fisher (Oct. 24, 2014) (on file with author).

<sup>139</sup> Ordinance Number O-19670 (2007) (codified as amended at SAN DIEGO, CAL., MUN. CODE § 54.0110).

<sup>140</sup> SAN DIEGO, CAL., MUN. CODE § 54.0110. “It is unlawful for any person to erect, place, allow to remain, construct, establish, plant, or maintain any vegetation or object on any public street, alley, sidewalk, highway, or other public property or public right-of-way.”

<sup>141</sup> Telephone interview with Rick Schnell, *supra* note 126.

<sup>142</sup> E-mail from Steve Binder, Deputy Public Defender, San Diego Office of the Primary Public Defender, to Marina Fisher (October 7, 2014) (on file with author).

<sup>143</sup> SAN DIEGO POLICE DEPARTMENT, ARRESTS RECORDS REPORT FOR MC 54.0110, AUGUST – SEPTEMBER 2014 (2014). After receiving the Arrests Records Report for PC 647(e), *supra* note 130, we requested arrest data for Municipal Code Section 54.0110 via e-mail from Salvador Jericho at the San Diego Police Department. He sent an identically formatted Arrests Records Report.

<sup>144</sup> Telephone interview with Vanessa Jimenez, *supra* note 123.

<sup>145</sup> See *Desertrain v. City of L.A.*, 754 F.3d 1147 (9th Cir. 2014).

<sup>146</sup> E-mail from John Havicon, *supra* note 106.

<sup>147</sup> See *supra* Section III (San Diego case study).

<sup>148</sup> FORBES ET AL., *supra* note 93.

<sup>149</sup> Ali, *supra* note 33, at 230. For information on the challenges of imposing and collecting court-ordered debt in California, see generally MAC TAYLOR, RESTRUCTURING THE COURT-ORDERED DEBT COLLECTION PROCESS (Drew Soderborg ed., 2014), available at <http://www.lao.ca.gov/reports/2014/criminal-justice/debt-collection/court-ordered-debt-collection-111014.pdf> (last visited Dec. 29, 2014).

<sup>150</sup> NAT’L LAW CTR. ON HOMELESSNESS AND POVERTY, CRIMINALIZING CRISIS: ADVOCACY MANUAL 31 (2011).

<sup>151</sup> *Id.* at 32.

<sup>152</sup> SOC. SEC. ADMIN., WHAT PRISONERS NEED TO KNOW 2 (2010), available at <http://www.ssa.gov/pubs/EN-05-10133.pdf>.

<sup>153</sup> NAT’L LAW CTR. ON HOMELESSNESS AND POVERTY, CRIMINALIZING CRISIS, *supra* note 150, at 34; U.S. DEP’T OF HOUS. AND URBAN DEV., “ONE STRIKE AND YOU’RE OUT” SCREENING AND EVICTION GUIDELINES FOR PUBLIC HOUSING AUTHORITIES (1996), available at [http://portal.hud.gov/hudportal/documents/huddoc?id=DOC\\_10981.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_10981.pdf) (last visited Dec. 1, 2014).

<sup>154</sup> See ANN MARIE OLIVE, U.S. DEP’T OF HOUS. AND URBAN DEV., SNAPS IN FOCUS: THE CASE AGAINST LAWS THAT CRIMINALIZE HOMELESSNESS (2014), available at <https://www.hudexchange.info/onecpd/assets/File/SNAPS-In-Focus-The-Case-Against-Laws-that-Criminalize-Homelessness.pdf>.

<sup>155</sup> Though beyond the scope of this report, the United Nations High Commissioner for Human Rights recently concluded that “[l]aws that criminalize homelessness, vagrancy or sleeping rough, along with street cleaning operations to remove homeless people from the streets” may deprive homeless people of a range of international human rights. OFFICE OF THE UNITED NATIONS HIGH COMM’R FOR HUMAN RIGHTS, THE RIGHT TO ADEQUATE HOUSING 22 (2014), available at [http://www.ohchr.org/Documents/Publications/FS21\\_rev\\_1\\_Housing\\_en.pdf](http://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf) (last visited Jan. 19, 2015).

<sup>156</sup> HENRY ET AL., *supra* note 2, at 9.

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<sup>157</sup> Jones v. City of Los Angeles, 444 F.3d 1118, 1138 (9th Cir. 2006), *vacated by* 505 F.3d 1006 (2007) (parties reached a settlement and asked the court to withdraw its opinion).

<sup>158</sup> Simon, *supra* note 39, at 655-656.

<sup>159</sup> *Id.* at 671; Elizabeth Schultz, *The Fourth Amendment Rights of the Homeless*, 60 FORDHAM L. REV. 1003, 1005-06 (1992). *E.g.*, State v. Mooney, 588 A.2d 145, 161 (S. C. Conn. 1991) (holding that the homeless defendant had a reasonable expectation of privacy, and therefore a warrantless search of his personal property was invalid).

<sup>160</sup> Papachristou v. City of Jacksonville, 405 U.S. 156, 168-69 (1972); Desertrain v. City of Los Angeles, 754 F.3d 1147, 1157 (9th Cir. 2014).

<sup>161</sup> Papachristou v. City of Jacksonville, 405 U.S. 156, 168-69 (1972).

<sup>162</sup> *Id.*, quoting Johnson v. United States, 333 U.S. 10, 15-17 (1948).

<sup>163</sup> See *supra* notes 137-44 and accompanying text.

<sup>164</sup> NAT'L LAW CTR. ON HOMELESSNESS AND POVERTY, CRIMINALIZING CRISIS, *supra* note 150, at 19.

<sup>165</sup> Desertrain v. City of L.A., 754 F.3d 1147, 1157 (9th Cir. 2014).

<sup>166</sup> *Id.* at 1155-57.

<sup>167</sup> LEGAL SERVS. CORP., DOCUMENTING THE JUSTICE GAP IN AMERICA: THE CURRENT UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS (2009), *available at* [http://www.lsc.gov/sites/default/files/LSC/pdfs/documenting\\_the\\_justice\\_gap\\_in\\_america\\_2009.pdf](http://www.lsc.gov/sites/default/files/LSC/pdfs/documenting_the_justice_gap_in_america_2009.pdf) (last visited Dec. 1, 2014).

<sup>168</sup> See T.J. Johnston, *Trials and Tribulations of Homeless Folks in San Francisco Courts*, STREET SPIRIT, Apr. 8, 2013, *available at* <http://www.thestreetspirit.org/trials-and-tribulations-of-homeless-folks-in-san-francisco-courts/> (last visited Dec. 1, 2014) (5,179 citations were issued in 2012).

<sup>169</sup> FORBES ET AL., *supra* note 93.

<sup>170</sup> Memorandum from Policy Advocacy Clinic, UC, Berkeley, School of Law on Cost Analysis of the Criminalization of Homelessness to Paul Boden, Executive Director, Western Regional Advocacy Project (Dec. 3, 2013) (on file with author).

<sup>171</sup> U.S. INTERAGENCY COUNCIL ON HOMELESSNESS, OPENING DOORS: FEDERAL STRATEGIC PLAN TO PREVENT AND END HOMELESSNESS 18 (2010), *available at* [http://usich.gov/PDF/OpeningDoors\\_2010\\_FSPPpreventEndHomeless.pdf](http://usich.gov/PDF/OpeningDoors_2010_FSPPpreventEndHomeless.pdf) (last visited Dec. 1, 2014).

<sup>172</sup> A similar misalignment of incentives and financial responsibility is described in William D. Ball, *Tough on Crime (on the State's Dime): How Violent Crime Does Not Drive California Counties' Incarceration Rates – And Why it Should*, 28 GA. ST. L. REV. 987 (2012).

<sup>173</sup> S.A. Salit et al., *Hospitalization Costs Associated with Homelessness in New York City*, 338 NEW ENG. J. MED. 1734 (1998).

<sup>174</sup> BAUMAN, *supra* note 5, at 30.

<sup>175</sup> Mary E. Larimer et al., *Health Care and Public Service Use and Costs Before and After Provision of Housing for Chronically Homeless Persons with Severe Alcohol Problems*, 301 J. AM. MED. ASSOC. 1349, 1349 n.13 (2009), *available at* <http://jama.jamanetwork.com/article.aspx?articleid=183666> (last visited Dec. 5, 2014).

<sup>176</sup> GREGORY A. SHINN, THE COST OF LONG-TERM HOMELESSNESS IN CENTRAL FLORIDA: THE CURRENT CRISIS AND THE ECONOMIC IMPACT OF PROVIDING SUSTAINABLE HOUSING SOLUTIONS 13 (2014), *available at* [http://www.volusiaocog.org/uploads/8/1/0/6/8106215/the\\_cost\\_of\\_long-term\\_homelessness\\_in\\_central\\_florida.pdf](http://www.volusiaocog.org/uploads/8/1/0/6/8106215/the_cost_of_long-term_homelessness_in_central_florida.pdf) (last visited Nov. 26, 2014)

<sup>177</sup> HALIL TOROS ET AL., CNTY. OF L.A. CHIEF EXEC. OFFICE SERV. INTEGRATION BRANCH, PROJECT 50: THE COST EFFECTIVENESS OF THE PERMANENT SUPPORTIVE HOUSING MODEL IN THE SKID ROW SECTION OF LOS ANGELES COUNTY 1, 24 (2012), *available at* <http://zev.lacounty.gov/wp-content/uploads/Project-50-Cost-Effectiveness-report-FINAL-6-6-12.pdf> (last visited Dec. 1, 2014).

<sup>178</sup> CMTY. HOUS. P'SHIP, BREAKING THE CYCLE, ANNUAL REPORT 2012-2013 6 (2013), *available at* [http://issuu.com/chp-sf/docs/chp\\_annual\\_report\\_fnl1\\_panels](http://issuu.com/chp-sf/docs/chp_annual_report_fnl1_panels) (last visited Dec. 5, 2014).

<sup>179</sup> The number of laws may be smaller than the number of restrictions because a single law may impose multiple categories of restrictions.

- <sup>180</sup> LANCASTER, CAL., MUN. CODE § 9.12.020, *available at* [https://www.municode.com/library/ca/lancaster/codes/code\\_of\\_ordinances?nodeId=TIT9PUPEMOWE\\_CH9.12LO\\_9.12.020PR](https://www.municode.com/library/ca/lancaster/codes/code_of_ordinances?nodeId=TIT9PUPEMOWE_CH9.12LO_9.12.020PR) (last visited Dec. 22, 2014).
- <sup>181</sup> L.A., CAL., MUN. CODE § 41.18, *available at* [http://www.amlegal.com/nxt/gateway.dll/California/lamc/municipalcode/chapterivpublicwelfare/articleI disorderly conductplacesandpublic?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:losangeles\\_ca\\_mc\\$anc=JD\\_41.18](http://www.amlegal.com/nxt/gateway.dll/California/lamc/municipalcode/chapterivpublicwelfare/articleI disorderly conductplacesandpublic?f=templates$fn=default.htm$3.0$vid=amlegal:losangeles_ca_mc$anc=JD_41.18) (last visited Dec. 22, 2014).
- <sup>182</sup> SAN JOSE, CAL., MUN. CODE § 10.10.010, *available at* [http://sanjose.amlegal.com/nxt/gateway.dll/California/sanjose\\_ca/title10publicpeaceemoralsandwelfare\\*/chapter1010pedestrianfacilitationordinan?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanjose\\_ca\\$anc=JD\\_10.10.010](http://sanjose.amlegal.com/nxt/gateway.dll/California/sanjose_ca/title10publicpeaceemoralsandwelfare*/chapter1010pedestrianfacilitationordinan?f=templates$fn=default.htm$3.0$vid=amlegal:sanjose_ca$anc=JD_10.10.010) (last visited Dec. 22, 2014).
- <sup>183</sup> PALO ALTO, CAL., MUN. CODE § 9.48.025, *available at* <http://www.ci.sanbernardino.ca.us/civicax/filebank/blobdload.aspx?blobid=2551> (last visited Dec. 22, 2014).
- <sup>184</sup> ROSEVILLE, CAL., MUN. CODE § 13.12.020, *available at* <http://qcode.us/codes/roseville/> (last visited Dec. 22, 2014).
- <sup>185</sup> POMONA, CAL., MUN. CODE § 46-606, *available at* [https://www.municode.com/library/ca/pomona/codes/code\\_of\\_ordinances?nodeId=SPAGEOR\\_CH46STSIOTPUPL\\_ARTXIICASLSTPR\\_S46-606UNARSL](https://www.municode.com/library/ca/pomona/codes/code_of_ordinances?nodeId=SPAGEOR_CH46STSIOTPUPL_ARTXIICASLSTPR_S46-606UNARSL) (last visited Dec. 22, 2014).
- <sup>186</sup> PALMDALE, CAL., MUN. CODE § 9.46.010, *available at* <http://www.codepublishing.com/ca/palmdale.html>
- <sup>187</sup> ORANGE, CAL., MUN. CODE § 12.48.045, *available at* [https://www.municode.com/library/ca/orange/codes/code\\_of\\_ordinances?nodeId=TIT12STSIPUPL\\_CH12.48PARE\\_12.48.045CAPR](https://www.municode.com/library/ca/orange/codes/code_of_ordinances?nodeId=TIT12STSIPUPL_CH12.48PARE_12.48.045CAPR) (last visited Dec. 22, 2014).
- <sup>188</sup> POMONA, CAL., MUN. CODE § 46-603, *available at* [https://www.municode.com/library/ca/pomona/codes/code\\_of\\_ordinances?nodeId=SPAGEOR\\_CH46STSIOTPUPL\\_ARTXIICASLSTPR\\_S46-606UNARSL](https://www.municode.com/library/ca/pomona/codes/code_of_ordinances?nodeId=SPAGEOR_CH46STSIOTPUPL_ARTXIICASLSTPR_S46-606UNARSL) (last visited Dec. 22, 2014).
- <sup>189</sup> OXNARD, CAL., MUN. CODE § 8-26, *available at* [http://www.amlegal.com/nxt/gateway.dll/California/oxnard/chapter8vehiclesandtraffic?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:oxnard\\_ca\\$anc=JD\\_8-26](http://www.amlegal.com/nxt/gateway.dll/California/oxnard/chapter8vehiclesandtraffic?f=templates$fn=default.htm$3.0$vid=amlegal:oxnard_ca$anc=JD_8-26) (last visited Dec. 22, 2014).
- <sup>190</sup> GARDEN GROVE, CAL., MUN. CODE § 10.56.180, *available at* [http://www.ci.garden-grove.ca.us/cgi-bin/municode\\_public/code.cgi](http://www.ci.garden-grove.ca.us/cgi-bin/municode_public/code.cgi) (last visited Dec. 22, 2014).
- <sup>191</sup> CHULA VISTA, CAL., MUN. CODE § 9.21.010, *available at* <http://www.codepublishing.com/CA/chulavista/> (last visited Dec. 22, 2014).
- <sup>192</sup> OAKLAND, CAL., MUN. CODE § 5.18.030, *available at* [https://www.municode.com/library/ca/oakland/codes/code\\_of\\_ordinances?nodeId=TIT5BUTAPERE\\_CH5.18CHRESO](https://www.municode.com/library/ca/oakland/codes/code_of_ordinances?nodeId=TIT5BUTAPERE_CH5.18CHRESO) (last visited Dec. 22, 2014).
- <sup>193</sup> POMONA, CAL., MUN. CODE § 30-608, *available at* [https://www.municode.com/library/ca/pomona/codes/code\\_of\\_ordinances?nodeId=SPAGEOR\\_CH30LIPEMIRE\\_ARTIXSOPA\\_DIV1GE\\_S30-608AGPASO](https://www.municode.com/library/ca/pomona/codes/code_of_ordinances?nodeId=SPAGEOR_CH30LIPEMIRE_ARTIXSOPA_DIV1GE_S30-608AGPASO) (last visited Dec. 22, 2014).
- <sup>194</sup> SAN BERNARDINO, CAL., MUN. CODE § 33.0408, *available at* [http://www.amlegal.com/nxt/gateway.dll/California/sanbernardinocounty\\_ca/title3healthhandsanitationandanimalregula/division3environmentalhealth/chapter4foodprotection?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanbernardinocounty\\_ca\\$anc=JD\\_33.0408](http://www.amlegal.com/nxt/gateway.dll/California/sanbernardinocounty_ca/title3healthhandsanitationandanimalregula/division3environmentalhealth/chapter4foodprotection?f=templates$fn=default.htm$3.0$vid=amlegal:sanbernardinocounty_ca$anc=JD_33.0408) (last visited Dec. 22, 2014).
- <sup>195</sup> SANTA MONICA, CAL., MUN. CODE § 5.06.020, *available at* <http://www.qcode.us/codes/santamonica/> (last visited Dec. 22, 2014).
- <sup>196</sup> THOUSAND OAKS, CAL., MUN. CODE § 5-8.08, *available at* [http://www.amlegal.com/nxt/gateway.dll/California/thousandoaks\\_ca/title5publicwelfaremoralsandconduct/chapter8miscellaneousoffenses?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:thousandoaks\\_ca\\$anc=JD\\_5-8.08](http://www.amlegal.com/nxt/gateway.dll/California/thousandoaks_ca/title5publicwelfaremoralsandconduct/chapter8miscellaneousoffenses?f=templates$fn=default.htm$3.0$vid=amlegal:thousandoaks_ca$anc=JD_5-8.08) (last visited Dec. 22, 2014).