



Why Cities Must End Their Reliance on Police to Manage Homelessness – and How They Can Do It

Megan Welsh Carroll, San Diego State University

Jennifer Kate Felner, San Diego State University

Encounters with the police are a routine part of life for people experiencing homelessness in the U.S., particularly in cities. Police encounters can range in form from encampment “sweeps” and orders to move along, to tickets and arrests for a wide range of offenses. Police have at times even ordered people to stay away from certain parts of the city, which can prevent people from accessing social service providers.

Recent research suggests that these **law enforcement encounters have long-lasting effects on how people experiencing homelessness** perceive the police. Not only can this create mistrust of the police, but it can lead to a reluctance to accept services offered by the police – including emergency shelter. Further, it can lead to people trying to avoid the police at all costs, which may create further risk to their health and safety.

Police contact can have catastrophic consequences for people experiencing homelessness: the issuance of tickets can, for many people, produce hundreds if not thousands of dollars in fines and court fees. Non-payment can result in an arrest warrant. An arrest and incarceration can mean loss of important personal items, such as warm clothing, work tools and supplies, and life-sustaining medications, not to mention separation from human and animal companions. Further contact with the criminal-legal system can result in a criminal record that can prevent people from qualifying for housing. In this way, **criminalization actually perpetuates homelessness**: if our goal is to eliminate homelessness from our city streets, criminalization is counterproductive.

Lastly, the criminalization of homelessness produces extensive societal costs, creates new problems, and fails to solve the root causes of homelessness. For example, a large – and growing – portion of the San Diego County jail population has a history of homelessness: 39% of San Diego jail detainees in 2018 had been homeless in the past 30 days, and 66% had been homeless at some point in their lives, according to SANDAG. Incarceration is expensive, removes people from their communities and support systems, and does nothing to help people regain housing.

A series of Supreme Court rulings in the 1960s and 1970s consistently struck down cities’ use of overly-vague statutes for offenses such as loitering, vagrancy, and drunkenness in public, finding that homelessness and its related behaviors cannot be criminalized. More recently, a federal appeals court ruling in 2018, *City of Boise v. Martin*, found that Boise’s anti-camping ordinance violates the Eighth Amendment’s ban on cruel and unusual punishment. This decision was upheld by the Supreme Court in 2019.

In response to these limitations, many U.S. cities are continuously re-writing their laws – or enforcing existing laws in new ways – to more specifically target homelessness-related behaviors. This is deeply concerning, not

only from a legal standpoint, but also because the rampant enforcement of these laws signals the end of the concept of “public space” as accessible to all city residents.

As the City of San Diego has revitalized its downtown core in recent years, the San Diego Police Department has been tasked with enforcing a wide range of “quality of life” laws, including a municipal code originally intended to deal with wayward trash dumpsters by prohibiting the encroachment on the public right-of-way. Tickets and arrests for this so-called “encroachment” law have been the target of recent lawsuits for excessive enforcement, after similar lawsuits a decade ago curtailed excessive use of a state law against “illegal lodging.”

In May 2019, the San Diego City Council passed an ordinance making it illegal for San Diegans to sleep in their vehicles from 9 p.m. to 6 a.m. or at any time within 500 feet of a residence or school. This ordinance was passed despite clear and persistent warnings from legal and social service agencies that such an ordinance would negatively impact well-being and criminalize thousands of community members who have no other safe and viable options for sleeping. In effect, this ordinance is yet another way that homelessness has been criminalized in San Diego, rather than treated as a social problem impacting our most marginalized community members.

To address these troubling trends and implement policies that address the root of the city’s problems, city leaders should consider:

- *Decriminalizing homelessness and investing in alternatives.* Stop enforcing laws that are only on the books to displace people experiencing homelessness, eliminate the punitive enforcement of these laws, and redirect these resources instead to increasing access to affordable housing.
- *Moving homeless outreach out of police departments and into the capable hands of social service agencies.* Homeless outreach teams (“HOT”) are a police-social service hybrid program model that has become widely adopted in U.S. cities, despite little evidence of their effectiveness. Given the high levels of mistrust of police among the homeless population, tasking police officers – equipped with guns, badges, and wearing uniforms that communicate a law enforcement priority – with a social service mandate is counterproductive. When people try to avoid police contact and/or refuse services offered to them by police, they are then labeled as “service resistant,” driving a misperception that people don’t want housing when in reality, they are simply trying to ensure their survival by avoiding tickets and arrests. Further, the lack of a clear pipeline from outreach to permanent housing reduces trust in and willingness to accept help from these teams.
- *Developing an informed, evidence-based understanding of the causes of and solutions to homelessness.* People experiencing homelessness in our communities are more likely than not to be our local neighbors – consistently, around three-quarters of people surveyed during the [annual homelessness point-in-time count report](#) that they became homeless in San Diego (see also the SANDAG report). Homelessness is a symptom of large societal issues that need solving, rather than a function of poor individual choices. By acknowledging this, communities can then mobilize and advocate for cities to stop over-investing in criminal-legal responses to homelessness, and start diverting those funds to providing more affordable housing.