

CRIMINALIZATION OF HOMELESSNESS

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While police have often violently evicted homeless encampments and unhoused people in the U.S., never did I think I would have to start this chapter by raising the alarm that [armed military personnel and federal agents \(https://tr.ee/050a7B\)](https://tr.ee/050a7B) are roaming the streets of our national capital to dismantle the tents of Americans who simply cannot afford the rent, and that plans for construction of a [homeless detention camp \(https://www.nytimes.com/2025/10/29/us/politics/utah-trump-homeless-campus.html\)](https://www.nytimes.com/2025/10/29/us/politics/utah-trump-homeless-campus.html) are well under way in Utah. But less than a year into the Trump administration (as of this writing), President Trump is targeting extremely vulnerable unhoused Americans as one of his steps to see how far he can extend his authoritarian powers.

Making it a crime to be homeless is deeply unpopular. Over [70% of voters \(https://tr.ee/zpG8oo\)](https://tr.ee/zpG8oo) across the country support housing, not handcuffs. Unfortunately, it is a politically convenient way for elected officials to misdirect blame to people in poverty for not being able to afford housing and pretend to address the problem while hiding the costs. As a result, every day in America, people experiencing homelessness are ticketed, arrested, or involuntarily committed by police for living in public spaces, even when they have nowhere else to go. No one should live on the streets, but throwing people in detention centers and institutionalizing people with mental and physical disabilities and those struggling with substance use does nothing to get them into housing or effective treatment. In fact, these actions will make homelessness worse.

Millions of individuals, families, and youth experience homelessness each year, and millions more lack access to decent, stable housing they can afford. Rather than providing adequate housing options, too many communities criminalize homelessness by making it illegal for people to stand, sit, sleep, shelter oneself with anything from a blanket to a vehicle, or even ask for help. These laws and policies violate constitutional, civil, and human rights, traumatize homeless individuals,

and negatively impact their physical and mental health (including creating police encounters that can lead to unnecessary use of force or death), create arrest records, fines, and fees that stand in the way of homeless people securing jobs or housing, and perpetuate racial inequity.

2025 was devastating for unhoused and unsheltered individuals and communities and the advocates fighting with them for liberation. In 2024, we warned that the Supreme Court's [Johnson v. Grants Pass \(https://johnsonvgrantspass.com/\)](https://johnsonvgrantspass.com/) decision would be seen as a green light to criminalize homelessness, and the past year has proven us correct. At the local level, more than [260 communities passed new camping bans \(https://tr.ee/2N5Q0x\)](https://tr.ee/2N5Q0x) in just the first year since the decision. At the state level, the billionaire-backed lobbying group, the [Cicero Institute \(https://tr.ee/ednPtU\)](https://tr.ee/ednPtU), published and promulgated a ["Reducing Street Homelessness Model Bill" \(https://tr.ee/xpeUoy\)](https://tr.ee/xpeUoy) that diverts funding away from long-term permanent housing solutions and toward forcing homeless persons into detention camps under threat of arrest, and makes it easier to place psychiatric holds and administer involuntary medical treatment to unhoused people experiencing mental health conditions. Versions of the bill have been introduced in at least 15 states, and passed in at least nine. And now Cicero has begun crafting national policy for President Trump, who entered office on a [platform \(https://tr.ee/dd5h7h\)](https://tr.ee/dd5h7h) of a national camping ban and detention camps for people who simply cannot afford rent, which he has already started implementing through a series of racist and harmful [executive orders \(https://homelesslaw.org/statement7242025/\)](https://homelesslaw.org/statement7242025/), including his assault on unsheltered people in DC, and new [grant incentives \(https://homelesslaw.org/statement11142025/\)](https://homelesslaw.org/statement11142025/) in the HUD Continuum of Care funding application.

2026 will be a critical year in the fight against criminalization. The Trump administration must be stopped from implementing a national camping ban and forcing unhoused people into government detention camps and housing advocates must fight against state and local efforts to do the same. Even

with these troubling developments, the wide coalition of who [rallied \(https://johnsonvgrantspass.com/rally\)](https://johnsonvgrantspass.com/rally) around the Grants Pass case enter 2026 with a renewed commitment to end criminalization and to share the truth that we have known for decades: Criminalization harms entire communities and does nothing to address the root causes of homelessness and housing insecurity. [Housing, Not Handcuffs \(https://housingnohandcuffs.org/\)](https://housingnohandcuffs.org/) is how we end homelessness.

History

From [vagrancy laws \(https://tr.ee/Y29aY9\)](https://tr.ee/Y29aY9) and the workhouses of pre-industrial England to [legal segregation, sundown towns, and anti-Okie laws \(https://www.huffpost.com/entry/the-quality-of-whose-life_b_749280\)](https://www.huffpost.com/entry/the-quality-of-whose-life_b_749280) in the U.S., ordinances regulating the use of public space have long been used to exclude marginalized persons based on race, gender identity, national origin, disability, age, and economic class. With the advent of modern homelessness in the 1980s, rather than addressing the underlying lack of affordable housing, communities faced with increasingly visible homelessness began pushing homeless persons out of public view with laws criminalizing life-sustaining acts such as self-sheltering (“camping”), sleeping, resting, eating, or asking for donations. Other communities have used disparate enforcement of other ordinances, such as jaywalking or littering, or preventing aid providers from sharing food, to harass and push homeless persons out of certain spaces. These practices gained even more traction with the trend toward “broken windows” or “quality of life” policing in the 1990s. For homeless youth, paternalistic status offense laws like runaway statutes and curfews ignore youths’ own assessments of where they are safest and can turn them into criminals or “delinquents” the second they step out the door without the intent to return.

Since 2006, the National Homelessness Law Center tracked these laws in [187 cities \(https://tr.ee/skSEN2\)](https://tr.ee/skSEN2) and across all [50 states and the District of Columbia \(https://tr.ee/ZUHtID\)](https://tr.ee/ZUHtID). The Law Center found that between 2006 and 2019, city-wide bans on camping increased by 92%, on sitting or lying by 78%, on loitering by 103%, on panhandling by 103%, and on living in vehicles by 213%, accompanying a

[1,300% growth of homeless encampments \(https://homelesslaw.org/wp-content/uploads/2018/10/Tent_City_USA_2017.pdf\)](https://homelesslaw.org/wp-content/uploads/2018/10/Tent_City_USA_2017.pdf). Too often, homeless residents experience forced evictions or “sweeps” of the encampments, usually with little notice and no provision of alternative housing, frequently resulting in the destruction of important documents, medicines, and what little shelter the residents have.

Over the past few decades, the courts have provided some limited protection against criminalization, covered in the Law Center’s [2022 Litigation Manual Supplement \(https://tr.ee/nSnaUv\)](https://tr.ee/nSnaUv). For example, since the 2015 [Norton v. Springfield \(https://tr.ee/H431Uj\)](https://tr.ee/H431Uj) decision in the 7th Circuit, no panhandling ordinance challenged in court has withstood constitutional scrutiny under the First Amendment, and dozens of cities have since repealed their ordinances, some instituting more effective [day shelter \(https://tr.ee/dNV0Sb\)](https://tr.ee/dNV0Sb) and [day labor \(https://tr.ee/Hv0vBR\)](https://tr.ee/Hv0vBR) programs. In 2018, the [Martin v. Boise \(https://tr.ee/490CMU\)](https://tr.ee/490CMU) decision in the 9th Circuit held that in the absence of adequate alternatives, it is cruel and unusual punishment under the 8th Amendment to punish someone for life-sustaining activities like sleeping, resting, or sheltering oneself. This led to many successful cases following a similar theory, and communities invested significant new resources into shelters and other alternatives. However, in June 2024, the Supreme Court overruled this principle in the [Johnson v. City of Grants Pass \(https://johnsonvgrantspass.com/\)](https://johnsonvgrantspass.com/) case. The Court did affirm that other protections may still exist for unhoused persons, and since that time there have been cases finding sweeps of homeless encampments to violate due process and property protections under the 4th Amendment, and other laws criminalizing homelessness to violate the 14th Amendment’s equal protection and due process clauses, along with other state constitutional or common law protections. Advocates have also overturned anti-food sharing laws on First Amendment religious exercise, assembly, and speech grounds and other religious freedom statutes. While litigation must always be done [in coordination with legislative advocacy and movement-building \(https://wraphome.org/ldc/\)](https://wraphome.org/ldc/), the Law Center found that litigation remains a useful tool in the fight to end the criminalization of homelessness. Based on

summaries and analyses of more than 180 lawsuits, the Law Center [found \(https://tr.ee/vQa0tV\)](https://tr.ee/vQa0tV) that 60% of cases challenging camping bans and/or sweeps of encampments have led to favorable outcomes, 77% of cases challenging loitering or vagrancy bans have led to favorable outcomes, and 66% of cases challenging food sharing bans have led to favorable outcomes.

Issue Summary

The growing affordable housing gap and shrinking social safety net have left millions of people homeless or at-risk, and most American cities have fewer emergency shelter beds than people who need shelter. Despite this lack of affordable housing and shelter space, many cities have chosen to criminally or civilly punish people living on the street for doing what any human being must do to survive, like sleeping, resting, and eating—activities we all do every day and take for granted. Additionally, jurisdictions across the country and political spectrum have also increasingly pushed to remove protections against involuntary mental health commitments as an alternative way to forcibly remove unhoused persons with mental health disabilities from the streets.

It is important to note that BIPOC communities experience criminalization in disparate and discriminatory ways. This is not only because Black people and people of color experience homelessness across the country at [disproportionately high rates \(https://endhomelessness.org/overview/\)](https://endhomelessness.org/overview/), but also because Black and Latinx people are 9.7 times and 5.8 times, respectively, [more likely to be cited \(https://tr.ee/V8Rh5W\)](https://tr.ee/V8Rh5W) under laws that criminalize homelessness when compared to white individuals, and Black individuals are also at higher risk of being diagnosed with mental illness that could lead to [involuntary commitment or conservatorship \(https://tr.ee/EEInmL\)](https://tr.ee/EEInmL). Over the past few years, thanks to [advocacy \(https://tr.ee/8DYjKY\)](https://tr.ee/8DYjKY) from directly impacted communities, the [UN Committee on the Elimination of Racial Discrimination \(https://tr.ee/7ZeG4I\)](https://tr.ee/7ZeG4I), UN Expert Mechanism on Law Enforcement & Racism (<https://tr.ee/kjQjQn>), and UN Special Rapporteur on Racism (<https://tr.ee/5mfqkt>) have all condemned the disparate racial impact of criminalization of homelessness in the U.S. and made recommendations to abolish it.

Other marginalized groups that disproportionately experience homelessness, including [people with disabilities \(https://tr.ee/m6J5oi\)](https://tr.ee/m6J5oi) and [LGBTQ+ individuals \(https://tr.ee/HqU9Op\)](https://tr.ee/HqU9Op), are also at risk of being discriminatorily targeted and affected by criminalization. President Trump and the Cicero Institute are also targeting [sex offenders \(https://tr.ee/hZtlKE\)](https://tr.ee/hZtlKE) and people with [substance use disorders \(https://tr.ee/6Q5P79\)](https://tr.ee/6Q5P79) directly and by threatening [harm reduction providers \(https://aapp.org/perspective/2025/08/751\)](https://aapp.org/perspective/2025/08/751). While these communities' experiences with homelessness and criminalization have come to the forefront more in recent years, there is significant work to be done when it comes to amplifying and centering the voices and experiences of individuals who experience homelessness while also holding other marginalized identities and statuses.

Criminalization policies are [ineffective \(https://tr.ee/9g732W\)](https://tr.ee/9g732W) and, in fact, make homelessness harder to exit. Because people experiencing homelessness are not on the street by choice but because they lack choices, criminal and civil punishment serves no [penological purpose \(https://tr.ee/5cD4FI\)](https://tr.ee/5cD4FI). Instead, arrests, unaffordable tickets, and the collateral consequences of criminal convictions make [it more difficult for people to exit homelessness \(https://tr.ee/3rpMFW\)](https://tr.ee/3rpMFW) and get back on their feet. Criminalization of homelessness might mean that individuals experiencing homelessness are taken to jail, where they may remain for weeks if they cannot pay their bail or fines, perhaps losing custody of their children, property, and/or employment in the process. Once released, they could have criminal records that make it more difficult to get or keep a job, housing, or public benefits. Moreover, [fines and court fees \(https://tr.ee/XHxpGs\)](https://tr.ee/XHxpGs) associated with resolving a criminalization case can amount to hundreds, or even thousands, of dollars. Without the resources to pay, homeless people often have warrants taken out against them and may be subject to additional jail time.

Criminalization is the most expensive and least effective way of addressing homelessness and wastes scarce public resources on policies that do not work. An [extensive body of research \(https://tr.ee/A0wC4Q\)](https://tr.ee/A0wC4Q) comparing the cost of homelessness, including the cost of criminalization, with the cost of providing housing

to homeless people shows that ending homelessness through housing is the most affordable option in the long run. Indeed, the provision of housing using a Housing First model, which focuses on providing people with quick, low-barrier access to housing followed by any needed services to maintain housing stability, is cheaper and more effective than all other strategies for addressing homelessness. For example, [a study in Charlotte, NC \(https://www.charlotteobserver.com/news/local/article20155044.html\)](https://www.charlotteobserver.com/news/local/article20155044.html), found that the city saved \$2.4 million over the course of a year after creating a Housing First facility, as tenants spent 1,050 fewer nights in jail and 292 fewer days in the hospital and had 648 fewer visits to emergency rooms. With state and local budgets stretched to their limit and the threat of additional federal cuts on the horizon, rational, cost-effective policies are needed, not ineffective measures that waste precious taxpayer dollars.

Program Summaries

In response to growing cost data and advocacy at the international and domestic levels, many federal agencies took an increasingly strong stance against criminalization of homelessness up through 2024, though practice did not always follow the policies on paper. With Trump's [Executive Order 14321 \(https://tr.ee/O6sgVb\)](https://tr.ee/O6sgVb), however, federal agencies have been explicitly directed to promote criminalization and forced institutionalization through policy and grantmaking.

U.S. DEPARTMENT OF JUSTICE

In the past, DOJ has opposed criminalization of homelessness through statement of interest briefs on [camping \(https://tr.ee/r5Qtxf\)](https://tr.ee/r5Qtxf), [panhandling \(https://www.justice.gov/usdoj-media/crt/media/1286391/dl?inline\)](https://www.justice.gov/usdoj-media/crt/media/1286391/dl?inline) and [religious institutions' right to share food \(https://tr.ee/veMm3E\)](https://tr.ee/veMm3E); [newsletters \(https://tr.ee/DAu2lr\)](https://tr.ee/DAu2lr); a letter on the impact of [excessive fines and fees \(https://tr.ee/OUoa3u\)](https://tr.ee/OUoa3u); a comment on a [proposed encampment ordinance \(https://tr.ee/73zi3E\)](https://tr.ee/73zi3E) in Seattle; and a civil rights investigation into the [Phoenix \(https://tr.ee/GOtPtO\)](https://tr.ee/GOtPtO) police department. The DOJ disappointingly filed a [brief \(https://tr.ee/zz1XEc\)](https://tr.ee/zz1XEc) "in favor of neither party" in the Grants Pass case. Trump's [EO 14321 \(https://tr.ee/XbjVeJ\)](https://tr.ee/XbjVeJ) explicitly directs the

Attorney General to a) reverse judicial precedents protecting against forced institutionalization and provide guidance and grants to increase involuntary commitments; b) prioritize grants for communities that enforce anti-camping, anti-drug use, and similar laws; c) track homeless persons on the Sex Offender Registry and push them into forced commitments; d) promote expansion of drug and mental health courts; e) bring charges against service providers engaged in harm reduction with substance users. In August, pursuant to [EO 14333 \(https://tr.ee/8yYfFN\)](https://tr.ee/8yYfFN), the president took over DC police and mobilized FBI and National Guard to ["remov\[e\] homeless encampments from all over our parks" and get "rid of the people from underpasses \(https://tr.ee/ZjP9hQ\)."](https://tr.ee/ZjP9hQ)

U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT

Since 2015, HUD has included an [incentive \(https://tr.ee/o1a3rW\)](https://tr.ee/o1a3rW) in its application for the \$4 billion Continuum of Care (CoC) funding stream for applicants who demonstrate that they are preventing the criminalization of homelessness. Trump's [EO 14321 \(https://tr.ee/LsVjMV\)](https://tr.ee/LsVjMV) directed HUD to reverse this and: a) prioritize grants for communities that enforce anti-camping, anti-drug use, and similar laws as well as utilize forced institutionalization; b) freeze funding to providers engaged in harm reduction with substance users; and c) share data with law enforcement. HUD then reversed prior funding decisions and reopened applications for both the [CoC Builds \(https://democracyforward.org/news/press-releases/naehvturner-trogranted/\)](https://democracyforward.org/news/press-releases/naehvturner-trogranted/) and [main CoC \(https://tr.ee/75nXmE\)](https://tr.ee/75nXmE) funding competition with these incentives, though both have had injunctions issued against them.

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES

Trump's [EO 14321 \(https://tr.ee/xfvK1q\)](https://tr.ee/xfvK1q) directed HHS to: a) prioritize grants for communities that enforce anti-camping, anti-drug use, and similar laws as well as utilize forced institutionalization; b) freeze funding to providers engaged in harm reduction with substance users; and c) provide guidance to increase the use of assisted

outpatient treatment programs. Both the [Substance Abuse and Mental Health Services Administration \(SAMHSA; https://www.samhsa.gov/sites/default/files/samhsa-strategic-priorities.pdf\)](https://www.samhsa.gov/sites/default/files/samhsa-strategic-priorities.pdf) and [Administration for Children and Families \(ACF; https://acf.gov/about/acf-vision-mission-values\)](https://acf.gov/about/acf-vision-mission-values) announced new strategic priorities aligned with the EO, and SAMHSA announced \$19M in supplemental [funding \(https://tr.ee/PPVUgv\)](https://tr.ee/PPVUgv) for programs to “align public health, housing, and justice systems” and promote judicially mandated forced treatment.

NATIONAL PARKS SERVICE, US FOREST SERVICE, & BUREAU OF LAND MANAGEMENT

Even prior to the Trump administration, federal landholding agencies have engaged in criminalization of homelessness from the National Parks Service (NPS) eviction of the [McPherson Square encampment \(https://tr.ee/talwww\)](https://tr.ee/talwww) in D.C., to the US Forest Service (USFS) and Bureau of Land Management (BLM), who shot and paralyzed a homeless man in [Idaho \(https://tr.ee/x0pnY2\)](https://tr.ee/x0pnY2). This continued in the Trump administration with an executive order to the NPS to evict more encampments in [DC \(https://homelesslaw.org/trumpdceo/\)](https://homelesslaw.org/trumpdceo/) and the eviction of more than 200 people from the Deschutes Forest in [Oregon \(https://tr.ee/NxdjG6\)](https://tr.ee/NxdjG6).

U.S. INTERAGENCY COUNCIL ON HOMELESSNESS

Since its 2012 [Searching Out Solutions \(https://tr.ee/48n4IZ\)](https://tr.ee/48n4IZ) report, USICH has published [several resources \(https://tr.ee/1DuVv0\)](https://tr.ee/1DuVv0) and guidance materials affirming its anti-criminalization mandate from the HEARTH Act, culminating in [All In: Federal Strategic Plan to Prevent and End Homelessness \(https://www.usich.gov/sites/default/files/document/All_In.pdf\)](https://www.usich.gov/sites/default/files/document/All_In.pdf). While these resources remain on the USICH website as of the date of this writing, the Trump administration has essentially [ceased \(https://tr.ee/13KXcX\)](https://tr.ee/13KXcX) the functionality of USICH.

U.S. DEPARTMENT OF EDUCATION

In 2018, the Department of Education updated [guidance \(https://tr.ee/IVPSVM\)](https://tr.ee/IVPSVM) on homeless students, reminding school personnel that they have to work outside the school building to remove barriers to homeless students’ success in school, including working with state legislatures and local governments to address the criminalization of homelessness.

Forecast for 2026

As noted above, 2026 will be a critical year in the fight against criminalization of homelessness. Despite litigation, we expect to see more funding and other incentives across federal agencies promoting criminalization and forced institutionalization. We must keep an eye on congressional efforts to [ban camping in DC \(https://www.congress.gov/bill/119th-congress/house-bill/5163\)](https://www.congress.gov/bill/119th-congress/house-bill/5163) and to codify Trump’s [EO \(https://www.congress.gov/bill/119th-congress/house-bill/6174/text\)](https://www.congress.gov/bill/119th-congress/house-bill/6174/text). At the state level, advocates should be on the lookout for bills based on the [Cicero Institute’s \(https://tr.ee/PjPC9Y\)](https://tr.ee/PjPC9Y) template or similar efforts to criminalize or place unhoused persons into involuntary commitments. And local political officials on both sides of the political aisle continue turning to criminalization strategies make the threat to unhoused persons greater than ever.

At the same time, advocates are [working better together \(https://housingnohandcuffs.org/join/\)](https://housingnohandcuffs.org/join/), than ever before. The Grants Pass case brought fresh attention to the issue from the [media \(https://johnsonvgrantspass.com/press-1\)](https://johnsonvgrantspass.com/press-1), [federal \(https://tr.ee/nlPOAp\)](https://tr.ee/nlPOAp), [state \(https://tr.ee/Nc6rZS\)](https://tr.ee/Nc6rZS), and [local \(https://tr.ee/1XbAhl\)](https://tr.ee/1XbAhl) elected officials, and other [allies \(https://johnsonvgrantspass.com/court-briefs\)](https://johnsonvgrantspass.com/court-briefs). The federal Housing Not Handcuffs Act (HR 4182; <https://www.congress.gov/bill/119th-congress/house-bill/4182>) would reinstitute the pre-Grants Pass standard with regard to federal agencies, and more than a dozen state bills seeking to reverse the impacts of Grants Pass have already been introduced.

What to Say to Legislators

The most critical message for legislators to hear is that punishing homeless people for needing to sleep and survive outside doesn't end homelessness—it makes it worse. If legislators don't want to see people living on their streets, the best, most effective, most cost-effective approach is housing and services, not tickets and arrests. The [Housing Not Handcuffs Campaign](https://housingnothandcuffs.org/) (<https://housingnothandcuffs.org/>) has developed [Model Policies](https://housingnothandcuffs.org/policy-solutions/) (<https://housingnothandcuffs.org/policy-solutions/>) for local, state, and federal governments that emphasize 1) shortening homelessness by stopping its criminalization, 2) preventing homelessness by strengthening housing protections and eliminating unjust evictions, and 3) ending homelessness by increasing access to and availability of affordable housing. The [National Coalition for Housing Justice](https://tr.ee/6AEyAe) (<https://tr.ee/6AEyAe>) has a useful statement on criminalization, and the [American Bar Association](https://tr.ee/cZBkFD) (<https://tr.ee/cZBkFD>), [American Medical Association](https://www.ama-assn.org/system/files/2019-04/a19-bot28.pdf) (<https://www.ama-assn.org/system/files/2019-04/a19-bot28.pdf>), and [American Public Health Association](https://tr.ee/VVIVDo) (<https://tr.ee/VVIVDo>) have put out policies opposing criminalization, and even the [National League of Cities](https://tr.ee/9iIJ62) (<https://tr.ee/9iIJ62>) has offered its critique. Lots of [resources](https://johnsonvgrantspass.com/social-media-toolkit) (<https://johnsonvgrantspass.com/social-media-toolkit>) were developed for the Grants Pass case, and the Housing Not Handcuffs Campaign also has [model one-pagers](https://tr.ee/RdcDjW) (<https://tr.ee/RdcDjW>) and [Six Ideas for Talking About Housing Not Handcuffs](https://tr.ee/9UPxgN) (<https://tr.ee/9UPxgN>) that may be useful in framing conversations with legislators. Invisible People has [videos](https://invisiblepeople.tv/stories-from-homeless-people/) (<https://invisiblepeople.tv/stories-from-homeless-people/>) that can also help make the case, and the Housing Narrative Lab has also published helpful [tools](https://housingnarrativelab.org/resources/) (<https://housingnarrativelab.org/resources/>) on how to effectively message in the homelessness advocacy space.

For More Information

National Homelessness Law Center, 202-638- 2535, info@homelesslaw.org; <https://homelesslaw.org/>

Housing Not Handcuffs Campaign, <http://www.housingnothandcuffs.org>