HOUSING NOT HANDCUFFS: WORKING TOGETHER FOR JUSTICE & ENDING THE CRIMINALIZATION OF HOMELESSNESS

May 24, 2019

Bob Erlenbusch, Executive Director
Sacramento Regional Coalition to End Homelessness
### SACRAMENTO: PATTERN & PRACTICE OF CRIMINALIZING HOMELESS PEOPLE

**11 Municipal Codes:**

<table>
<thead>
<tr>
<th>Number of Codes</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Standing, sitting, and resting in public places</td>
</tr>
<tr>
<td>3</td>
<td>Camping &amp; lodging in public places</td>
</tr>
<tr>
<td>3</td>
<td>Begging &amp; panhandling</td>
</tr>
</tbody>
</table>

**SPD: 2004 – 2014: Disproportionate enforcement**

<table>
<thead>
<tr>
<th>Offenses</th>
<th>#</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Begging; panhandling</td>
<td>144</td>
<td>12%</td>
</tr>
<tr>
<td>Standing, sitting; resting</td>
<td>226</td>
<td>19%</td>
</tr>
<tr>
<td>Sleeping, camping or lodging</td>
<td>831</td>
<td>69%</td>
</tr>
</tbody>
</table>
CRUEL & UNUSUAL PUNISHMENT:
SACRAMENTO HOMELESS CRIMINALIZATION, DISCRIMINATION & HARASSMENT REPORT: 2015 - 2016
297 SURVEYS: DEMOGRAPHICS

- **Age:** 79% adults; 21% youth
- **Gender:** 55% male; 43% female; 2% transgender
- **Ethnicity:** 66% people of color
  - 36% African-American
  - 34% Caucasian
  - 11.8% Multi-ethnic
  - 7.1% Hispanic
  - 4.4% Native American
  - 2% Other Pacific Islander
  - 1% Native Hawaiian
  - 1% Asian
- **Sexual Orientation:** 78% heterosexual; 6% bisexual; 5% gay; 3% lesbian; 8% preferred not to answer
SUMMARY: OVERALL PERCEPTION OF DISCRIMINATION BY GENDER, AGE & ETHNICITY: 74.8%

- Caucasian: 72.3%
- Other People of Color: 75.6%
- African-American: 76.6%
- Adult: 74.5%
- TAY: 75.8%
- Female: 72.8%
- Male: 75.6%
“MOVE ALONG” BY POLICE: GENDER, AGE & ETHNICITY: 54.7%
RIGHTS NEVER RESPECTED BY LAW ENFORCEMENT: COMBINED GENDER, AGE & ETHNICITY: 64.3%
## Summary of % Feeling Discrimination by Law Enforcement Agencies: Ratio of Homeless People of Color compared to Homeless Caucasian

<table>
<thead>
<tr>
<th>Law Enforcement Agency</th>
<th>People of Color</th>
<th>Caucasian</th>
<th>Ratio of People of Color to Caucasian</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police</td>
<td>69.1%</td>
<td>64.6%</td>
<td>1.1 times higher</td>
</tr>
<tr>
<td>Sheriff</td>
<td>59.2%</td>
<td>43.1%</td>
<td>1.4 times higher</td>
</tr>
<tr>
<td>Park Ranger</td>
<td>66.7%</td>
<td>21.8%</td>
<td>3.06 times higher</td>
</tr>
<tr>
<td>Transit Police</td>
<td>68.3%</td>
<td>19.8%</td>
<td>3.5 times higher</td>
</tr>
</tbody>
</table>
### 94% Support for Local Homeless Bill of Rights

<table>
<thead>
<tr>
<th>Demographic</th>
<th>No</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Gender</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>7.3%</td>
<td>92.7%</td>
</tr>
<tr>
<td>Female</td>
<td>4.2%</td>
<td>95.8%</td>
</tr>
<tr>
<td>Transgender</td>
<td>0%</td>
<td>100%</td>
</tr>
<tr>
<td><strong>Age</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TAY</td>
<td>3.3%</td>
<td>96.7%</td>
</tr>
<tr>
<td>Adult</td>
<td>5.9%</td>
<td>94.1%</td>
</tr>
<tr>
<td><strong>Ethnicity</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hispanic</td>
<td>10%</td>
<td>90%</td>
</tr>
<tr>
<td>Native American</td>
<td>0%</td>
<td>100%</td>
</tr>
<tr>
<td>African-American</td>
<td>8%</td>
<td>92%</td>
</tr>
<tr>
<td>Caucasian</td>
<td>3.2%</td>
<td>96.8%</td>
</tr>
<tr>
<td>Multi-ethnic</td>
<td>6%</td>
<td>94%</td>
</tr>
<tr>
<td><strong>AVERAGE</strong></td>
<td>5.8%</td>
<td>94.2%</td>
</tr>
</tbody>
</table>
SACRAMENTO COUNTY BOARD OF SUPERVISORS “WHACK A MOLE” STRATEGY
CAMPING ORDINANCE: COUNTY’S “WHACK A MOLE” STRATEGY

1. Homeless People Set Up Camp
2. Rangers Issue Warning
3. Rangers Evict Homeless People
4. Homeless People Look for Site
5. Rangers Issue Citations
A Tarnished Jewel: The Status of Illegal Camping on the American River Parkway

“The present approach to dealing with camping in the Parkway is not effective.

This shell game of citing illegal campers and campsites, cleaning them up and allowing illegal campers to set up new campsites in nearby areas is nonproductive.”
SACRAMENTO PARK RANGER ANTI-CAMPING CITATIONS – 2014 – 2017

- 2014: 617
- 2015: 1,162
- 2016: 736
- 2017: 1,453
MARTIN V BOISE

MARTIN V. BOISE: WHAT DOES IT MEAN FOR COMMUNITIES?

MARTIN V. BOISE

On September 4, 2018, the 9th Circuit Court of Appeals affirmed that the state may not “criminalize conduct that is an unavoidable consequence of being homeless—namely sitting, lying, or sleeping on the streets” when there are more homeless persons than available shelter beds or in the absence of other adequate alternatives. Alternatives must be practically accessible to a given individual, taking into account disability, religious beliefs, or other restrictions.

LEGAL RATIONALE

The 9th Circuit reasoned that sitting, lying down, and sleeping in public is unavoidable conduct that is inseparable from a homeless person’s status when they have no other place to live. To punish that conduct is akin to punishing a person’s homeless status—a result that cannot be tolerated under the 9th Amendment. This rationale can be—and has been—applied to laws ranging from camping bans to disorderly conduct laws.

EFFECT ON PEOPLE EXPERIENCING HOMELESSNESS

This case makes it illegal for your community to punish you for sitting, lying down, or sleeping outside when you have no option to do so inside. If you are asked to leave public space, you have the right to ask where you can go, instead. If there is no other place for you to lawfully go, and you are violating no other law, then you may have the right to refuse to move.

EFFECT ON COMMUNITIES

The rationale underlying the Martin v. Boise decision may apply to a wide range of policies and practices that have the effect of punishing a homeless person for sitting, lying down, and sleeping outside when they have no other option. Communities should immediately repeal such ordinances and view this as an opportunity to invest in cost-effective solutions proven to prevent and end homelessness. Elected officials can create wins for business, taxpayers, and homeless persons by actually reducing homelessness, rather than just its visible effects.

EFFECT ON ADVOCATES & SERVICE PROVIDERS

Advocates and service providers should emphasize that this ruling does not limit their community’s options but rather opens them up to the proven cost-effective solutions that have worked elsewhere and that they know how to implement. Advocates and service providers can call on local governments to redirect savings from reduced law enforcement to outreach, low barrier shelter, and Housing First solutions that will reduce the number of homeless persons on the street, and thus the visible impacts of those people.

ADDITIONAL RESOURCES

Model policies, communications materials, and other resources are available at www.housingnothandcuffs.org and www.nlchn.org/modelpolicies

HOUSING NOT HANDCUFFS

HOUSINGNOTHANDCUFFS.ORG
UPDATE: APRIL 2019: 9TH CIRCUIT UPLOADS MARTIN V BOISE DECISION
As of September 18, 2018, Sacramento County Counsel instructed Sacramento Park Rangers to stop issuing anti-camping citations.

City of Boise appealed decision to 9th federal circuit court of appeals- court upheld decision on April, 2019.
POST BOISE: INCREASING OTHER CITATIONS

Martin v Boise
# About 80% of Other Citations Issued from Dec 2018 – Feb 2019

<table>
<thead>
<tr>
<th>Months</th>
<th>Littering</th>
<th>Attaching a Structure to a Tree</th>
<th>Shopping Cart in the Park</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan – August 2018</td>
<td>128</td>
<td>101</td>
<td>102</td>
</tr>
<tr>
<td>Monthly Average</td>
<td>16</td>
<td>13</td>
<td>13</td>
</tr>
<tr>
<td>% total; Jan 18 – Jan 19</td>
<td>13.3%</td>
<td>15.4%</td>
<td>18.2%</td>
</tr>
<tr>
<td>Sept 2018 – Feb 2019</td>
<td>834</td>
<td>558</td>
<td>493</td>
</tr>
<tr>
<td>Monthly Average</td>
<td>139</td>
<td>93</td>
<td>82</td>
</tr>
<tr>
<td>% total:</td>
<td>86.7%</td>
<td>84.6%</td>
<td>82.8%</td>
</tr>
</tbody>
</table>
INCREASE IN AMERICAN RIVER PARKWAY ARRESTS POST 9TH CIRCUIT RULING

Martin v Boise

[Graph showing data on increases in arrests post 9th Circuit ruling, categorized by type of arrest (Felons, Misdemeanor Warrants, Drug-Related, Other Arrests) and months from Jan-18 to Feb-19.]

- Felonies
- Misdemeanor Warrants
- Drug-Related
- Other Arrests
SRCEH v City of Sacramento

July 5, 2018 – federal judge issued a preliminary injunction against City of Sacramento’s “aggressive panhandling ordinance” saying it is “direct violation of First Amendment
Russell was homeless for 15 years in Sacramento.

He received 190+ citations – mostly for camping.

His citations totaled $140,000 in fines.

He spent 104 days in County jail.

When Russell died on 10/5/2016 he had 37 active warrants.
RECOMMENDATIONS

- Moratorium on the Enforcement of Anti-Camping Ordinance

  **5 Reasons to Support the Moratorium on Anti-Camping Ordinance**

1. Lack of shelter capacity and lack of affordable & accessible housing: no alternative but to sleep outside
2. Ordinance runs counter to federal policy and Martin v Boise decision: DOJ states that “if homeless people have nowhere to go,” the Ordinance violates the 8th Amendment as “cruel & unusual punishment”
3. HUD has stated that communities that continue to criminalize homeless may face a loss of federal funding
4. Current enforcement of the ordinance by Police and County Park Rangers is expensive – tax payers money would be better used on services and housing
5. The citations create barriers to housing, employment and services
RECOMMENDATIONS

- Add “homelessness” to Sacramento Anti-Discrimination & Equality Municipal code
- Declare a homeless state of emergency in accordance with California Government Code Section 8698.2
- Expand the sources of funding for the City/County Affordable Housing Trust Fund
- Implement a Zero Tolerance Policy on discharging people to the streets: SB1152
- Implement Mandatory Peace Officers Standards & Training on homeless issues
- Implement Cultural Competency, Implicit Bias & Fair Housing Trainings for law enforcement, medical providers and social service agencies
RECOMMENDATIONS

- Support City and County Resolution to declare attacks on homeless people as hate crimes

2002 – 2017 – 30% of deaths of 1,000 deaths homeless people in Sacramento have been violent deaths: gunshots; stabbings; blunt force injuries; strangulation and hangings
## Homicide Rate Per 100,000

24 times higher for homeless population

<table>
<thead>
<tr>
<th></th>
<th>2002-2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housed</td>
<td>n/a</td>
<td>6</td>
<td>6.7</td>
<td>7</td>
<td>6.57</td>
</tr>
<tr>
<td>Homeless</td>
<td>n/a</td>
<td>188</td>
<td>123</td>
<td>164</td>
<td>158</td>
</tr>
</tbody>
</table>
Existing law makes an act punishable as a hate crime if the act is committed in whole or part because of an actual characteristic of the victim relating to the victim's disability, gender, nationality, race or ethnicity and sexual orientation.

This bill adds the victim’s actual or perceived homeless status.
National Law Center on Homelessness & Poverty:
www.nlchp.org
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