

SERVING AND PROTECTING?

SURVEY RESULTS ON HOMELESS NEW
YORKERS' EXPERIENCE WITH LAW
ENFORCEMENT

NOVEMBER 2018

NATIONAL LAW CENTER
ON HOMELESSNESS & POVERTY

HOUSING
NOT HANDCUFFS

ABOUT THE NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

The National Law Center on Homelessness & Poverty is the only national legal group dedicated to ending and preventing homelessness. It works to expand access to affordable housing, meet the immediate and long-term needs of those who are homeless or at risk, and strengthen the social safety-net through policy advocacy, public education, impact litigation, and advocacy training and support.

The Law Center is founded on the belief that in a society that has enough for all, no one should have to go without the basic necessities of life. Everyone should have equal access to justice and opportunity. Our vision is for an end to homelessness in America. A home for every family and individual will be the norm and not the exception; a right and not a privilege.

For more information about the Law Center and to access publications such as this report, please visit its website at www.nlchp.org.

BOARD OF DIRECTORS*

Edward R. McNicholas
Chair
Sidley Austin LLP

Bruce E. Rosenblum
Vice-Chair
The Carlyle Group

Kirsten Johnson-Obey
Secretary
NeighborWorks America

Robert C. Ryan
Treasurer
American Red Cross

Eric A. Bensky
Murphy & McGonigle, PC

Paul F. Caron
Microsoft Corporation

Bruce J. Casino
Attorney

Rajib Chanda
Simpson Thacher &
Bartlett LLP

Dwight A. Fettig
Porterfield, Fettig & Sears
LLC

Julia M. Jordan
Sullivan & Cromwell LLP

Steve Judge
Private Equity Growth
Capital Council (retired)

Father Alexander
Karloutsos
Greek Orthodox
Archdiocese of America

Georgia Kazakis
Covington & Burling LLP

Pamela Malester
U.S. Department of Health
and Human Services
(retired)

Tashena Middleton
Attorney

G.W. Rolle
Missio Dei Church

Jeffrey A. Simes
Goodwin Procter LLP

Vasiliki Tsaganos

Robert Warren
People for Fairness
Coalition

Khadijah Williams
DC Office of the
Ombudsman for Public
Education

Maria Foscarinis
President
Executive Director

**Affiliations for
identification purposes
only*

STAFF

Tristia Bauman
Senior Attorney

Nicole Davies
AmeriCorps VISTA

Lisa DeBone
Development and
Communications Associate

Maria Foscarinis
Founder & Executive
Director

Rachel Lee
AmeriCorps VISTA

Heidi Sahmel
Operations Manager

Jolie Steinert
Executive Assistant

Eric Tars
Senior Attorney

Cassidy Waskowicz
Pro Bono Counsel

ACKNOWLEDGEMENTS

The National Law Center on Homelessness & Poverty is grateful to the following individuals and firms for their tremendous contributions to the research, writing, and layout of the report:

Volunteers Nathalie Interiano, Margi Schierberl, Natalie Turchi, Yao Yang, Carissa Ferrigno, Akilah Browne, Jennifer Colyer, Bram Couvreur, Zachary Edelman, Alexia Boyarsky, Christopher Celantano, Michael Vandenberg, Colum Weiden, Shaun Bradshaw, Jake Saifman, Bryan Hunkele, Danica Curavic, Rita Muir, and Sean Stratmoen from Goldman Sachs, Fried Frank Harris Shriver & Jacobson LLP, Cleary Gottlieb Steen & Hamilton LLP, Holy Apostle Soup Kitchen, and Care for the Homeless for facilitating, conducting, and compiling the survey results.

Law Center staff including Eric Tars and Maria Foscarinis, and VISTA Rachel Lee for drafting and editing the report, and former staff Janet Hostetler and VISTA Darrell Stanley for organizing the survey.

The Law Center acknowledges with gratitude the generous support of the Americorps VISTA Program, Butler Family Fund, and the Oakwood Foundation.

The Law Center would also like to thank our LEAP member law firms: Akin Gump Strauss Hauer & Feld LLP, Arent Fox LLP, Baker Donelson, Covington, Dechert LLP, Fried Frank, Goldman Sachs Group, Inc., Goodwin, Kirkland & Ellis LLP, Latham & Watkins LLP, McCarter & English, Microsoft Corporation, Schulte Roth & Zabel LLP, Sheppard Mullin, Sidley Austin LLP, Simpson Thacher, Sullivan & Cromwell LLP, and WilmerHale.

The Law Center would like to acknowledge JM Suarez for the photograph used on the cover of this report.

Executive Summary

New York City, like the United States as a whole, is facing a crisis of homelessness, caused primarily by a severe shortage of affordable housing. Despite this lack of affordable housing as well as adequate shelter space, many cities, including New York, have chosen to criminally or civilly punish people living on the street for activities every human must do to survive—resting, eating, even going to the bathroom. In 2016, the National Law Center on Homelessness & Poverty, together with the National Coalition for the Homeless and more than 100 other national and local organizations, launched the Housing Not Handcuffs Campaign to combat the criminalization of homelessness and promote the right to adequate housing. The Campaign included a call to conduct surveys of people experiencing homelessness to bring their experiences of criminalization to light. As part of that effort, the Law Center coordinated volunteers from Goldman Sachs, Fried Frank Harris Shriver & Jacobson LLP, and Cleary Gottlieb Steen & Hamilton LLP in conducting surveys of 90 persons experiencing homelessness at Holy Apostle Soup Kitchen in Manhattan on January 26, 2018. The data from this survey overwhelmingly support the concerns of the Campaign that homelessness is criminalized in New York City, and demands constructive solutions.

Our survey indicates that law enforcement often harass, cite, and arrest homeless persons for activities such as sleeping, eating, or merely existing in a place. A majority of respondents reported they had been harassed by police (not necessarily cited or arrested) for sleeping and loitering and close to 60 percent reported being harassed under no particular law. Worse, 20 to 30 percent of respondents stated that harassment did extend to citation or arrest for the “crimes” of sleeping, loitering, and public urination. More than three-quarters of respondents report that if they assert their rights, police only sometimes or never respect them. One-third of respondents perceived their race and disability played a role in their ticketing or arrest.

Criminalization polices make homelessness harder to exit. Imposing high fines on homeless people for simply trying to survive adds to the financial burden on low-income individuals already lacking the resources to pay for their essential needs. Often they cannot pay their fines, and fines turn into bench warrants and arrests. Indeed, more than 40 percent of respondents stated they had been arrested on a bench warrant connected to their homelessness. Criminal convictions make it more difficult to become employed, gain housing, access education, and maintain a stable family. Significant numbers of respondents reported facing discrimination in housing, employment, and health care because of their homelessness. Beyond the individual consequences, criminalization also wastes money tax payer dollars because it does nothing to address the true causes of homelessness such as unaffordable housing and lack of healthcare.

Luckily, we know the solutions: the [Housing Not Handcuffs Campaign model policies](#) emphasize solutions that will 1) shorten homelessness by ending its criminalization, 2) prevent homelessness through renters’ protections, and 3) end homelessness through closing the housing affordability gap. In New York, one step is to support the [House Our Future NY Campaign](#) calling for 30,000 new units of affordable, permanent housing for homeless New Yorkers by 2026; working with the police to stop harassing behavior and instead partner with social service agencies is another. We also encourage further surveys to monitor homeless persons’ experience with law enforcement. Together, we can work for Housing Not Handcuffs, and bring an end to homelessness once and for all.

Introduction

As homelessness continues to grow across the country, communities are increasingly turning to ordinances that criminalize basic life-sustaining behaviors like eating, sleeping, and sheltering oneself in public, despite the lack of alternatives.¹ Instead of helping people escape life on the streets, criminalization of homelessness creates a costly revolving door that circulates individuals experiencing homelessness from the street to the criminal justice system and back, wasting resources that could otherwise go to reducing the number of people experiencing homelessness.

In recent years, homelessness in New York City has reached the highest levels since the Great Depression of the 1930s.² In August 2018, there were 62,166 homeless people, including 22,511 homeless children, sleeping each night in the New York City municipal shelter system.³ The number of homeless students in New York City grew from 69,244 in 2010 to 114,659 in 2017—this is about one in ten students.⁴ The primary cause of homelessness is lack of affordable housing. Other major causes of homelessness include eviction, domestic violence, job loss, and hazardous housing conditions.⁵ Yet, in 2017, nearly two-thirds of affordable homes in New York were purchased by investors,⁶ and of new apartment buildings constructed in the New York metro area, 85% were high-end, rather than aimed at being affordable to low-income New Yorkers.⁷

While New York City guarantees a right to shelter for all people experiencing homelessness, in practice, the New York shelter system is rife with problems that make it inaccessible to many who need it.⁸ Unfortunately, this means that many New Yorkers are effectively forced to live their lives in public, making them vulnerable to targeted enforcement by law enforcement on behalf of businesses and others who would rather not see them living there.

In light of the national trend towards criminalization and concerns expressed by local advocates Care for the Homeless and others in the New York City chapter of the Housing Not Handcuffs Campaign, the Law Center worked together with Goldman Sachs, Fried Frank Harris Shriver & Jacobson LLP, and Cleary Gottlieb Steen & Hamilton LLP to conduct a survey at the Holy

¹ See NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, HOUSING NOT HANDCUFFS: ENDING THE CRIMINALIZATION OF HOMELESSNESS IN U.S. CITIES (2016), <https://www.nlchp.org/documents/Housing-Not-Handcuffs>.

² Coalition for the Homeless, Basic Facts About Homelessness: New York City (2018), <http://www.coalitionforthehomeless.org/basic-facts-about-homelessness-new-york-city/>.

³ *Ibid.*

⁴ Advocates for Children of New York, *New Data Show Homelessness Continues to Rise in New York City* (Oct. 15, 2018), <https://advocatesforchildren.org/node/1288>.

⁵ Coalition for the Homeless, Basic Facts About Homelessness: New York City (2018), <http://www.coalitionforthehomeless.org/basic-facts-about-homelessness-new-york-city/>.

⁶ Center for NYC Neighborhoods, *Affordable Homeownership 10 Years After the Crisis* (2018), <https://cnycn.org/affordable-homeownership-10-years-after-the-crisis/>.

⁷ Nadia Balint, *8 Out of 10 New Apartment Buildings Were High-End in 2017, Trend Continues in 2018*, RentCafe (Sep. 21, 2018), <https://www.rentcafe.com/blog/rental-market/luxury-apartments/8-out-of-10-new-apartment-buildings-were-high-end-in-2017-trend-carries-on-into-2018/>.

⁸ See Coalition for the Homeless, *The Callahan Legacy: Callahan v. Carey and the Legal Right to Shelter* (2018), <http://www.coalitionforthehomeless.org/our-programs/advocacy/legal-victories/the-callahan-legacy-callahan-v-carey-and-the-legal-right-to-shelter/>; Josh Robin, *Gotham's Right-to-Shelter Promise—and Its Homeless Problem*, Daily Beast (May 3, 2017), <https://www.thedailybeast.com/gothams-right-to-shelter-promiseand-its-homeless-problem>.

Apostle Soup Kitchen to gain information about the experiences of homeless people in New York City with law enforcement and discrimination. Attorneys at Fried Frank then analyzed the responses and prepared a draft of this white paper.

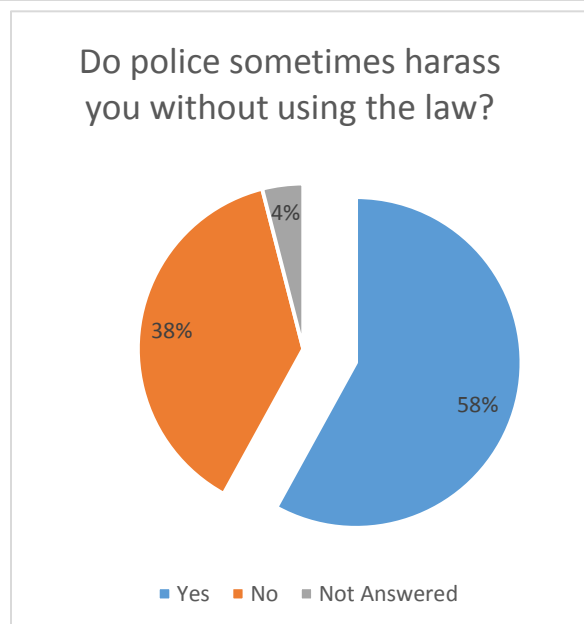
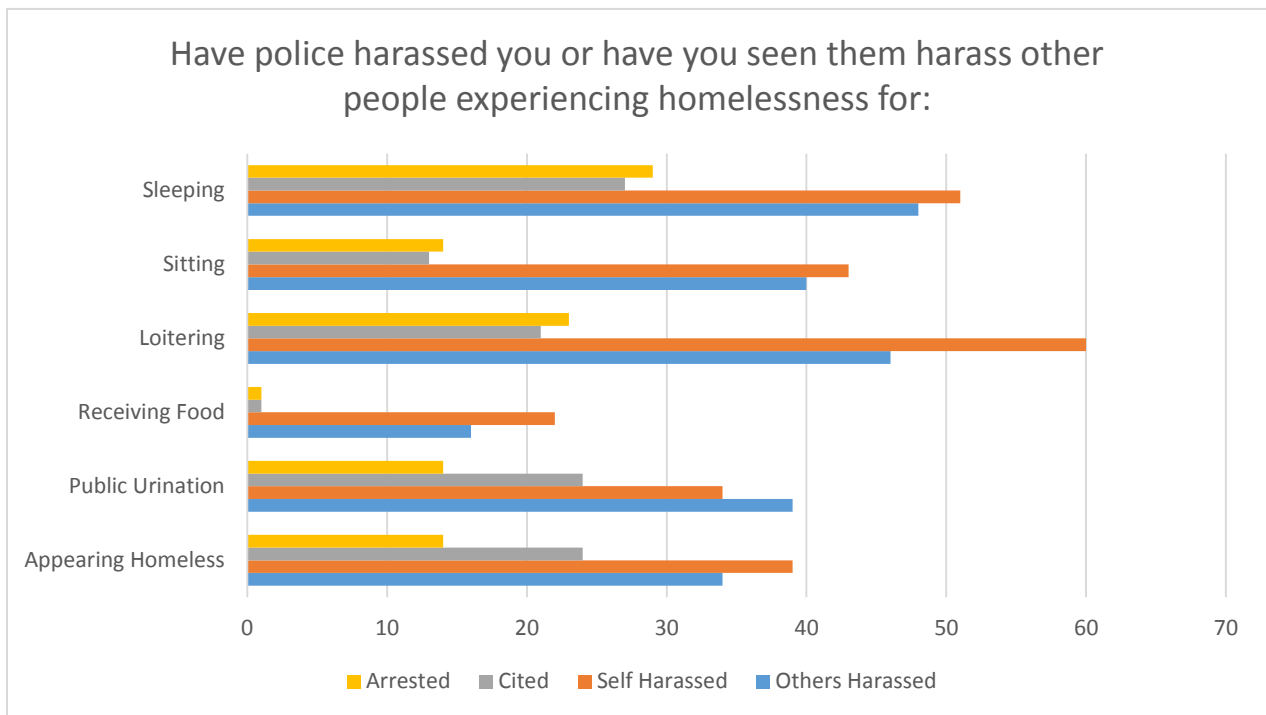
This survey is part of a larger organizing effort on behalf of the Housing Not Handcuffs Campaign. The Campaign was launched in 2016, by the Law Center and the National Coalition for the Homeless, and over 100 participating organizations. This national campaign was formed to stop the criminalization of homelessness and to push for effective housing policies that end homelessness through developing strategies around litigation, policy, advocacy, communications, and grassroots organizing. The Campaign now has over 760 endorsements and over 300 member organizations. More than 3,000 surveys have already been conducted across the country. With each new survey conducted, the Campaign is building up a national database of locally sourced data regarding homeless persons' interactions with law enforcement.

Methodology

Based off a survey template developed by the Western Regional Advocacy Project and adopted by the Housing Not Handcuffs Campaign, the Law center partnered with Goldman Sachs, Fried Frank Harris Shriver & Jacobson LLP, and Cleary Gottlieb Steen & Hamilton LLP to survey homeless individuals on their experiences with law enforcement. The Law Center and staff of Care for the Homeless conducted a training session hosted by Goldman Sachs to educate volunteer attorneys on the causes of homelessness, the impact of criminalization on homeless individuals, and techniques on how to properly conduct the survey. Over 90 homeless individuals were interviewed by the volunteer attorneys at the Holy Apostle Soup Kitchen in New York City on January 26, 2018. As potential participants stood in line for meals at the soup kitchen, volunteers inquired if people would be willing to answer questions regarding their interactions with law enforcement, and offered small compensation (NYC Metro Cards and candy) for the 5-10 minute survey. Those who were eating at the soup kitchen but had not experienced homelessness were excluded from the survey (but still given compensation). Volunteers from Fried Frank Harris Shriver & Jacobson LLP then analyzed the results.

Homeless Persons Experience Harassment, Citation, and Arrest

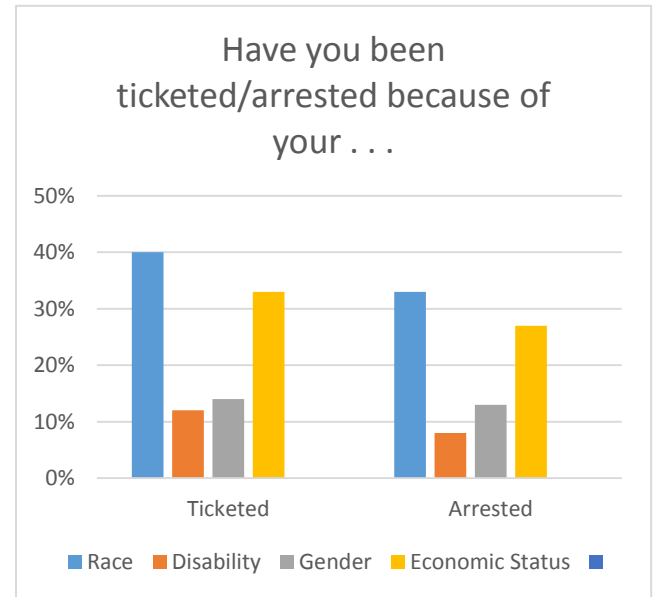
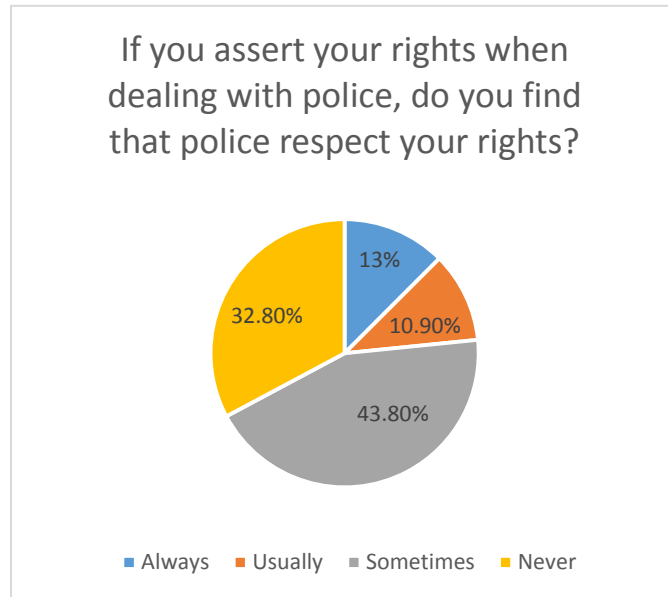
Our survey data indicate that homeless persons often experience harassment and arrest for activities that are required of individuals in order to exist: sleeping, eating, needing to go to the bathroom, or just being in a place. Homeless individuals therefore face a nearly constant risk of being charged with a crime on a daily basis, and a high percentage of survey respondents reported having been themselves or seen others being harassed, cited or arrested for these types of activities, whether under a specific law or not. Providing housing, or at a minimum adequate day and evening shelter, would drastically reduce these issues, benefiting both the community and the individuals who need a place to exist.



Homeless Persons Perceive Discrimination and a Lack of Respect for their Rights

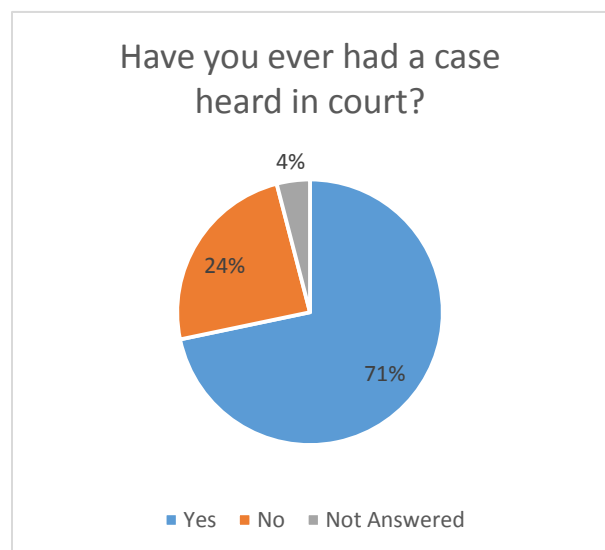
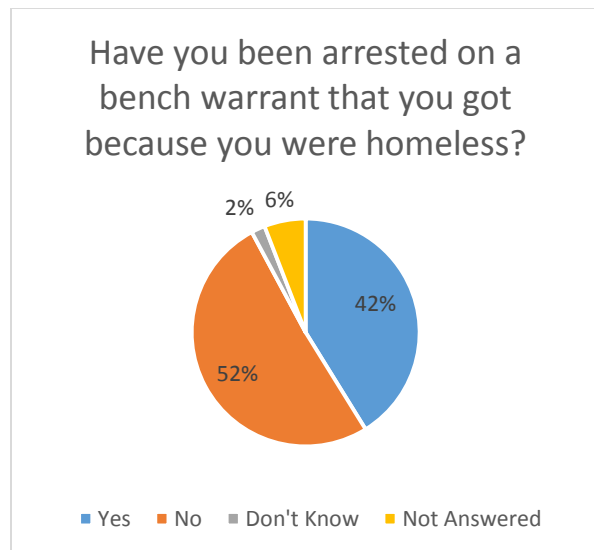
People experiencing homelessness in New York City perceive law enforcement target them for enforcement and fail to protect their civil and human rights. Further, some individuals perceive a higher risk of arrest and harassment due to race, gender, disability or economic status.

Proper training of the police on how to approach homeless individuals as well as the rights homeless people have is essential to creating an environment that allows communities to properly address homelessness.



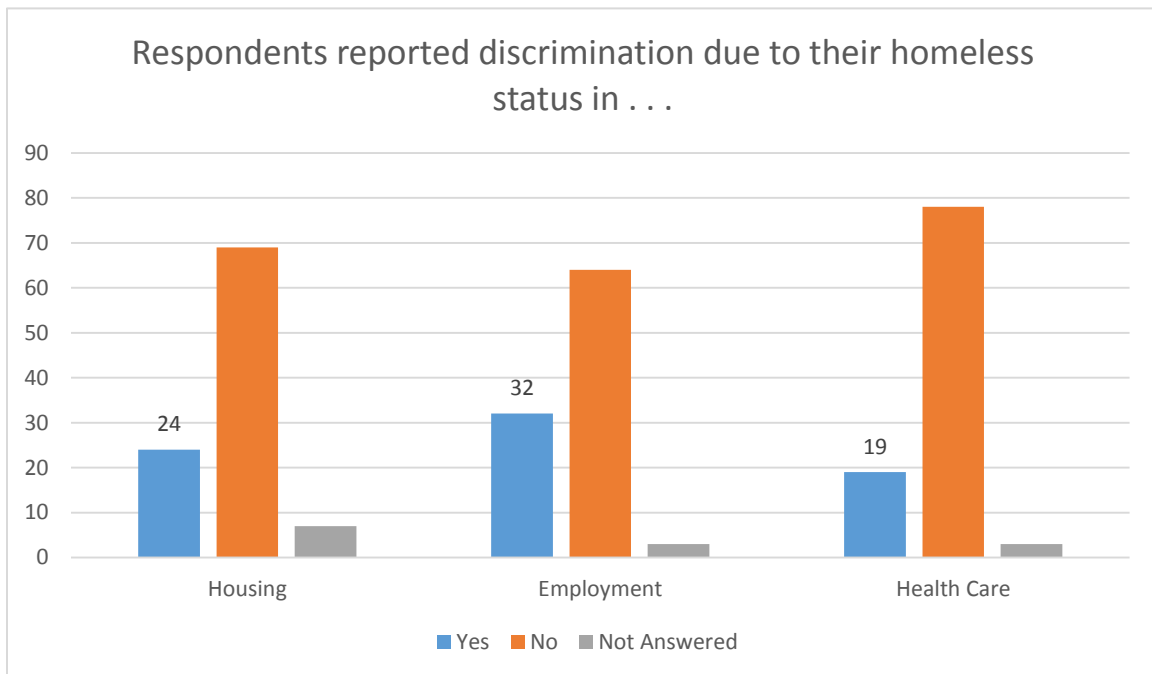
Criminalization of Homelessness Leads to Costly and Counterproductive Arrests

Nearly half of individuals surveyed indicated that they have been arrested on a bench warrant issued to the person because they were homeless, and 71 percent of individuals surveyed had a case prosecuted in court. Penalizing people experiencing homelessness by imposing high fines for minor violations and civil offenses merely adds to the financial burden on low-income individuals already lacking the resources to pay for their most essential needs. Subsequently punishing the inability to pay such fees with incarceration, as well as incarcerating individuals directly for daily activities such as sitting, sleeping and eating, does nothing to address the underlying causes of homelessness and, in fact, worsens homelessness by impacting employability, access to education and family stability. This counterproductive approach also wastes public funds that could otherwise be applied to alleviating the real systemic problems that cause homelessness, including the high cost of housing and lack of health care.



Criminalization Creates Barriers to Overcoming Homelessness

Criminalizing homelessness further perpetuates it. Individuals incarcerated for homelessness may subsequently experience discrimination in employment, housing and health care, which makes it even harder for those individuals to overcome homelessness. Of individuals surveyed, almost a quarter had faced discrimination from a landlord due to receiving income from federal, state or local public assistance. Further, almost a third of respondents reported being discriminated against at work or in connection with finding employment, due to their homeless status. Finally, 19 percent of individuals experiencing homelessness reported they were denied health care or discriminated against in a health care setting due to their homeless status. The fact that one-fifth to one-third of respondents surveyed were denied access to housing, employment, or health care means those individuals will face even greater barriers, exacerbating the challenges of overcoming homelessness.



Recommendations

In order to address the concerns raised by the responses of people experiencing homelessness to our survey and end the criminalization of homelessness and its costly, counter-productive impact on individuals and New York City as a whole, we offer the following recommendations:

1. [Endorse](#) the [Housing Not Handcuffs Campaign](#) and reach out to our New York City chapter members at [Care for the Homeless](#), [Picture the Homeless](#), and [Urban Pathways](#).
2. Join the [House Our Future NY campaign](#). House Our Future NY is an advocacy campaign formed by the Coalition for the Homeless and 60 partner organizations (and counting). The campaign is asking Mayor de Blasio for 30,000 new units of affordable, permanent housing for homeless New Yorkers by 2026, with 24,000 of these units to be created through new construction.
3. Share and work to implement the Housing Not Handcuffs [model policies](#) to prevent homelessness by implementing renters' protections, to shorten homelessness by preventing its criminalization, and to end homelessness by increasing the amount of available affordable housing.
4. Conduct the Housing Not Handcuffs [survey](#) in other cities and towns in New York State and across the country. Learning about the lived experiences of homeless people can help to increase understanding of the challenges they face. Survey data paired with personal stories can be a powerful tool for advocates to use when talking to city officials, members of non-profit organizations, and the general public about why governments should work towards housing, not handcuffs.



NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

2000 M Street NW, Suite 210, Washington, DC 20036

Phone: 202.638.2535 | Fax: 202.628.2737

www.nlchp.org

CFC # 11947



www.facebook.com/homelessnesslaw



twitter.com/nlchphomeless



www.linkedin.com/company/national-law-center-on-homelessness-and-poverty

HOUSING NOT HANDCUFFS



www.facebook.com/HousingNotHandcuffs



twitter.com/HNHCampaign #HNHNow

