



UN Mechanism on Racial Injustice & Law Enforcement in the United States

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1. In the United States, homelessness, and law enforcement responses to homelessness, are deeply intertwined with racism. As such, the criminalization of homelessness is fundamentally a racial issue. Despite only comprising approximately 13% of the general population in the U.S., Black people account for 40% of people experiencing homelessness, due to long-standing laws and policies adversely affecting Black communities.² Rather than addressing the underlying need for housing, in part because of the disparately Black face of homelessness, policymakers in the U.S. increasingly take a law-enforcement approach, criminalizing the life-sustaining activities of people experiencing homelessness such as sleeping, eating, or sitting.³ Out of 187 cities surveyed, 72% have at least one law that prohibits camping or sleeping in public.⁴ Additionally, since 2006, laws that prohibit sleeping in public have increased by 50%.⁵ Black people experiencing homelessness are approximately 10 times more likely to receive citations under these laws than white people.⁶ In some communities, *more than half* the people arrested on any given day are homeless, despite making up just a tiny fraction of the population.⁷ Each one of these unnecessary tickets or arrests is an opportunity for police violence, resulting in numerous instances of police torture and murder of Black unhoused persons.⁸ In other words, *if you want to talk about racism in law enforcement in the U.S., you need to talk about criminalization of homelessness.*

2. The structural racism against Black, Indigenous, and other people of color (BIPOC persons) presented today by the criminalization of homelessness is rooted in intentionally racist policies. Across the American South, anti-loitering and anti-vagrancy laws were a key component of Jim Crow, enabling law enforcement to arrest formerly enslaved Black persons for the “crime” of not having employment or permanent housing, and pass them back into forced labor gangs through the 13th Amendment’s loophole of allowing forced labor as a punishment for criminal activity.⁹ Today, given the lingering disparate impact of homelessness, as well as racialized stereotypes of homelessness, criminalization of homelessness serves similar purposes, if not as explicitly.

² U.S. Dep’t of Hous. & Urb. Dev., The 2019 Annual Homeless Assessment Report (Ahar) to Congress 1 (2019), <https://www.huduser.gov/portal/sites/default/files/pdf/2019-AHAR-Part-1.pdf>.

³ NAT’L L. CTR. ON HOMELESSNESS & POVERTY, RACIAL DISCRIMINATION IN HOUSING AND HOMELESSNESS IN THE UNITED STATES 3 (2014) [hereinafter NLCHP RACIAL DISCRIMINATION]; *see also* MIA., FLA., CODE 2020 § 37-3 (“It shall be unlawful for any person to sleep on any of the streets, sidewalks, public places, or upon the private property of another without the consent of the owner thereof.”); MIA., FLA., CODE 2020 § 37-4 (criminalizing living, sleeping, and cooking in vehicles parked on public property or private parking lots).

⁴ NAT’L L. CTR. ON HOMELESSNESS & POVERTY, HOUSING NOT HANDCUFFS 2019: ENDING THE CRIMINALIZATION OF HOMELESSNESS IN U.S. CITIES 12 (2019), <http://nlchp.org/wp-content/uploads/2019/12/HOUSING-NOT-HANDCUFFS-2019-FINAL.pdf> [hereinafter NLCHP HOUSING NOT HANDCUFFS].

⁵ *Id.*

⁶ NLCHP RACIAL DISCRIMINATION, *supra* note 2. *See also* LAWYERS’ COMMITTEE FOR CIVIL RIGHTS, CITED FOR BEING IN PLAIN SIGHT 5-6 (2020), https://lccrsf.org/wp-content/uploads/2020/09/LCCR_CA_Infraction_report_4WEB-1.pdf [hereinafter LCCR CITED IN PLAIN SIGHT].

⁷ Molly Harbarger, *Booking homeless Portlanders into jail is endless, expensive cycle that arrests don’t curb, but housing does*, THE OREGONIAN (Oct. 25, 2020), <https://www.oregonlive.com/crime/2020/10/booking-homeless-portlanders-into-jail-is-endless-expensive-cycle-that-arrests-dont-curb-but-housing-does.html>.

⁸ *See, e.g.* Gregory Yee, *O.C. sheriff’s deputy who fatally shot unarmed, homeless Black man won’t be charged*, L.A. TIMES (Feb. 11, 2022), <https://www.latimes.com/california/story/2022-02-11/orange-county-sheriffs-deputy-no-charges-kurt-reinhold-fatal-shooting>; AP, *Indianapolis police officer accused of kicking homeless man in the face*, WRB (Oct. 13, 2021), https://www.wdrb.com/news/indianapolis-police-officer-accused-of-kicking-homeless-man-in-the-face/article_e0a2bc3e-2c2b-11ec-8714-8787cda497e3.html.

⁹ *See* Black Code, Ferris State University, <https://www.ferris.edu/HTMLS/news/jimcrow/links/misclink/blackcode.htm>.

3. Criminalization of homelessness both disproportionately impacts people of color and further exacerbates racial disparities, violating the right to equality and non-discrimination.¹⁰ As the United Nations (UN) Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance recognized, “the enforcement of minor law enforcement violations [like criminalization of homelessness] . . . take a disproportionately high number of African American homeless persons to the criminal justice system.”¹¹ One study in Austin, TX shows that Black people experiencing homelessness were approximately 10 times more likely than white people to receive a camping citation.¹² However comprehensive enforcement data does not exist because most jurisdictions, and the federal government, do not require collection and disaggregation of data by housing status.¹³

4. In its September 2022 review, the UN Committee on the Elimination of Racial Discrimination expressed concern “at the increasing number of state and local laws that criminalize homelessness and at the disproportionately high number of persons belonging to racial and ethnic minorities affected by homelessness, in particular people of African descent, indigenous peoples and persons of Hispanic/Latino origin, including women and lesbian, gay, bisexual and transgender persons.”¹⁴ It called upon the U.S. government to “abolish laws and policies that criminalize homelessness,” “redirect funding from criminal justice responses to adequate housing and shelter programs, in particular for persons belonging to racial and ethnic minorities most affected by homelessness,”¹⁵ and “affirmatively further[] fair housing and protection against discriminatory effects.”¹⁶

5. While municipalities have been criminalizing homelessness for many years on their own, a concerning new trend is a coordinated push for criminalization at the state level.¹⁷ 48 out of 51 states and the District of Columbia have some form of law criminalizing homelessness statewide.¹⁸ In the 2021-22 legislative session, Missouri, Tennessee, and Texas all passed statewide anti-camping laws, influenced by template legislation promoted by a so-called “think-tank” known as

¹⁰ International Convention on the Elimination of All Forms of Racial Discrimination art. 2(1)(c), *ratified* Oct. 21, 1994, 660 U.N.T.S. 1 [hereinafter ICERD] (“Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists.”).

¹¹ Hum. Rts. Council, *Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Doudou Diene, Mission to the United States of America*, ¶ 64, U.N. Doc. A/HRC/11/36/Add.3 (Apr. 28, 2009).

¹² Nat’l L. Ctr. On Homelessness & Poverty, *Racism, Homelessness, and the Criminal And Juvenile Legal Systems* 1, 3 (2020).

¹³ *See, e.g.* U.S. DEPT. OF JUSTICE, BUREAU OF JUSTICE STATISTICS, 2020 ANNUAL SURVEY OF JAILS (2020), <https://bjs.ojp.gov/data-collection/annual-survey-jails-asj#surveys-0>.

¹⁴ Comm. on the Elimination of Racial Discrimination, *Concluding Observations on the Combined Tenth to Twelfth Reports of the United States of America*, ¶ 39, U.N. Doc. CERD/C/USA/CO/10-12 (Sept. 21, 2022).

¹⁵ Comm. on the Elimination of Racial Discrimination, *Concluding Observations on the Combined Tenth to Twelfth Reports of the United States of America*, ¶ 40, U.N. Doc. CERD/C/USA/CO/10-12 (Sept. 21, 2022).

¹⁶ Comm. on the Elimination of Racial Discrimination, *Concluding Observations on the Combined Tenth to Twelfth Reports of the United States of America*, ¶ 38, U.N. Doc. CERD/C/USA/CO/10-12 (Sept. 21, 2022).

¹⁷ *See* Emergent Threats: State Level Criminalization (2023), <https://housingnohandcuffs.org/emergent-threats-state-level-criminalization/>.

¹⁸ NAT’L HOMELESSNESS L. CTR., *HOUSING NOT HANDCUFFS 2021: STATE LAW SUPPLEMENT 7* (2021), <https://homelesslaw.org/wp-content/uploads/2022/02/2021-HNH-State-Crim-Supplement.pdf> [hereinafter NHLC HNH STATE SUPPLEMENT].

the Cicero Institute.¹⁹ Tennessee’s statute makes it a felony, with up to a year imprisonment and life-long collateral consequences, including a permanent ban on voting.²⁰ Missouri and Texas’s laws both explicitly threaten local jurisdictions with legal consequences, including withholding of homelessness funding, if they do not enforce the camping ban.²¹ So far in the 2023-24 legislative session, bills reflecting the Cicero Institute approach have been introduced in Arizona, California, Georgia, Hawaii, Kansas, Tennessee, and Washington.²²

6. The Cicero Institute template also includes language lowering barriers for involuntarily committing unhoused people with mental health disabilities.²³ In a similar vein, California recently passed a new law that enables law enforcement to refer unhoused persons with mental health disabilities into a new specialized court system in which they can be forced into treatment even if they are not presently a danger to themselves if a judge speculates that they are “likely” to be so in the future.²⁴ A report on Reparations in California details the pervasive effects of racial discrimination in the health care system over centuries, including the weaponizing of a mental health diagnosis to force sterilization and treatment of Black Californians.²⁵ Because of the overrepresentation of BIPOC individuals among the homeless population and the overdiagnosis

¹⁹ Cicero Institute, Reducing Street Homelessness Act Model Bill (2022), <https://ciceroinstitute.org/wp-content/uploads/2021/11/Reducing-Street-Homelessness-Act-Model-Bill.090821.pdf>. Rebecca Rivas, *New Missouri law makes sleeping on state land a crime for people experiencing homelessness*, MISSOURI INDEPENDENT (Jun. 29, 2022), <https://missouriindependent.com/2022/06/29/new-missouri-law-makes-sleeping-on-state-land-a-crime-for-people-experiencing-homelessness/>; MO HB 1606 (2002), Sec. 67.300 et.seq. <https://house.mo.gov/billtracking/bills221/hlrbillspdf/3703H.08T.pdf>; Adam Edelman, *Tennessee made homeless camps a felony. Colorado is trying something else*, NBC NEWS (Jun. 12, 2022), <https://www.nbcnews.com/politics/politics-news/tennessee-made-homeless-camps-felony-colorado-trying-something-else-rcna32516>; Reese Oxner, *Texas likely to ban homeless encampments in unapproved public places after bill is sent to governor*, TEXAS TRIBUNE (May 28, 2021), <https://www.texastribune.org/2021/05/28/camping-ban-bill-approved/>; TX HB 1925 (2021), <https://legiscan.com/TX/text/HB1925/id/2407654>.

²⁰ TN H.B.0978 (2022). TENN. ADVISORY COMM. TO THE U.S. COMM. ON CIVIL RIGHTS, THE RIGHT TO VOTE AND EX-FELON DISENFRANCHISEMENT IN TENNESSEE, 1 (2014), https://www.usccr.gov/files/pubs/docs/TN_SAC_Ex-Felon-Report.pdf.

²¹ TX H.B. 1925 (2021), which states “Sec. 364.002. POLICY ON CAMPING BANS. (a) A local entity may not adopt or enforce a policy under which the entity prohibits or discourages the enforcement of any public camping ban. Sec. 364.003. INJUNCTIVE RELIEF. (a) The attorney general may bring an action ... to enjoin a violation of Section 364.002 [and] may recover reasonable expenses... Sec. 364.004. DENIAL OF STATE GRANT FUNDS. (a) A local entity may not receive state grant funds, and state grant funds for the local entity shall be denied, for the state fiscal year following the year in which a final judicial determination in an action brought under Section 364.003 is made that the entity has intentionally violated Section 364.002.”

²² See Housing Not Handcuffs, *Emergent Threats: State Level Criminalization* (2023), <https://housingnohandcuffs.org/emergent-threats-state-level-criminalization/>.

²³ See Cicero Institute, *supra*, note 18.

²⁴ Jay Caspian King, *California’s Fight Against Homelessness Has Turned Desperate and Dangerous*, N.Y. TIMES (June 27, 2022), <https://www.nytimes.com/2022/06/27/opinion/california-homeless-mental-illness.html>. CA SB 1338 (2022).

²⁵ State of California’s Department of Justice – Office of the Attorney General, *California Task Force to Study and Develop Reparation Proposals for African Americans: Interim Report* (AB 3121), dated June 2022 ([2022 - AB3121 Full Interim Report \(ca.gov\)](https://www.ca.gov/2022-AB3121-Full-Interim-Report)), Chapter 12: *Mental and Physical Harm and Neglect* at 422-423, fn. 408; Chapter 11: *An Unjust Legal System* at pp. 390-391; Chapter 12: *Mental and Physical Harm and Neglect* at 406-436; see also Robert C. Schwartz, Ph.D., et al., *Racial disparities in psychotic disorder diagnosis: A review of empirical literature*, World Journal of Psychiatry 2014; 4:4, 133-140.

for mental health disabilities, this court system will result in the disparate removal of autonomy and liberty for racial minorities, in particular, Black persons, in California.²⁶

7. The federal government has responded to the increase in criminalization with helpful guidance, funding incentives, and some enforcement action, but it has not been sufficient to stem the growth of anti-homeless ordinances and enforcement at the local level.²⁷ For example, in 2017, Miami Beach hired a special prosecutor for “nuisance” crimes, such as loitering, jaywalking, or consuming alcohol in public, which have been predominately enforced against people experiencing homelessness.²⁸ In 2020, the City of Miami passed an ordinance criminalizing food sharing, or the feeding of people experiencing homelessness in groups of twenty-five or more without a permit and at non-designated feeding locations (with only five inconvenient locations designated).²⁹ By passing this ordinance, the City of Miami is “using hunger as a weapon against the poor.”³⁰ Further, in 2021, Miami passed an anti-camping ordinance, which criminalizes any encampment on public property.³¹ Stronger incentives, such as those proposed in the Housing is a Human Right Act and Ending Homelessness Act have not yet passed Congress.³²
8. In December, the U.S. Interagency Council on Homelessness (USICH) issued a new Federal Strategic Plan to Prevent and End Homelessness, in which it acknowledges the link between anti-Black racism, homelessness, and criminalization, and outlines the need for non-law enforcement approaches to helping people out of encampments:

²⁶ See Kate Cimini, *Black people disproportionately homeless in California*, CAL MATTERS, October 5, 2019 (updated February 27, 2021) (<https://calmatters.org/california-divide/2019/10/black-people-disproportionately-homeless-in-california/>).

²⁷ See, e.g. U.S. Interagency Council on Homelessness, *All In: Federal Strategic Plan to Prevent and End Homelessness* (2022), [https://www.usich.gov/All In The Federal Strategic Plan to Prevent and End Homelessness.pdf](https://www.usich.gov/All-In-The-Federal-Strategic-Plan-to-Prevent-and-End-Homelessness.pdf); U.S. Dept. of Housing & Urban Development, NOTICE OF FUNDING AVAILABILITY FOR THE 2015 CONTINUUM OF CARE PROGRAM COMPETITION, 44 (2015); Nat’l Law Ctr on Homelessness & Poverty, *Scoring Points: How Ending the Criminalization of Homelessness Can Increase HUD Funding to Your Community* (2018), <https://homelesslaw.org/wp-content/uploads/2018/10/NOFAToolkit2018.pdf>; Dept. of Justice, Office of Public Affairs, *Justice Department Announces Investigation of the City of Phoenix and the Phoenix Police Department* (Aug. 5, 2021), <https://www.justice.gov/opa/pr/justice-department-announces-investigation-city-phoenix-and-phoenix-police-department>; Dept. of Justice, Office of Public Affairs, *Justice Department Files Brief to Address the Criminalization of Homelessness* (Aug. 6, 2015), <http://www.justice.gov/opa/pr/justice-department-files-brief-address-criminalization-homelessness>.

²⁸ UNIV. MIA. SCH. L. HUM. RTS. CLINIC ET AL., *A RACIAL JUSTICE RESPONSE TO HOMELESSNESS 1* (2021).

²⁹ MIA., FLA., CODE 2020 § 25-25; Maya Lora, *Miami passes ordinance requiring permits to feed large groups of homeless people*, SUN SENTINEL (Jun. 26, 2020), <https://www.sun-sentinel.com/local/miami-dade/fl-ne-miami-homeless-permits-20200626-qptfs42vsfdr5kr64zpfsgdl4m-story.html>.

³⁰ Interview with David Peery, Exec. Dir., Miami Coalition to Advance Racial Equity (Feb. 25, 2022) (Peery continues by saying there is no difference between the food sharing ordinance and what the United Nations condemns as a war crime in cutting off the flow of food to people.).

³¹ *Commission passes anti-camping ordinance*, MIA. TIMES (Nov. 3, 2021), https://www.miamitimesonline.com/news/local/commission-passes-anti-camping-ordinance/article_c5bc6238-3c2c-11ec-9085-4f36d2f85a84.html.

³² H.R. 3772, 117th Cong. §103, 201, 305 (2021), providing, for example “... any grant made using amounts made available by this Act ... matching funding shall not be required for such grant if such recipient demonstrates ... the recipient has created and implemented a formal plan to cease to penalize homelessness”; H.H.R. 4496, 117th Cong. §6 (2021), providing “The formula shall provide priority to ... (ii) collaborative applicants for which the local governments have adopted policies that decriminalize homelessness.”

Anti-Black racism continues to be ignored as a root cause of homelessness, and Black people experiencing homelessness continue to be inadequately protected from housing discrimination, over-policing, criminalization of poverty, and other systemic forces that contribute to their overrepresentation in the total population of people experiencing homelessness...Strategy 1: Ensure federal efforts to prevent and end homelessness promote equity and equitable outcomes.³³

Unless encampment closures are conducted in a coordinated, humane, and solutions-oriented way that makes housing and support adequately available, these “out of sight, out of mind” policies can lead to ... increased interactions with the criminal justice system; and significant traumatization— all of which can set people back in their pathway to housing and disrupt the work of ending homelessness.³⁴

9. Shamefully, despite these pledges in the Federal Plan, the National Park Service Police (part of a USICH member agency) used massive police presence to force approximately 70 persons experiencing homelessness from McPherson Square Park in Washington D.C. despite lack of capability to place people into housing.³⁵ In Washington, D.C. 85 percent of people experiencing homelessness are Black.³⁶ Two arrests were made during the closure and two-thirds of people in the Park remain on the street, more traumatized and less able to meet their own survival needs or connect to service than before.³⁷
10. In criminalizing activities necessary for survival, the U.S. violates the physical integrity of people experiencing homelessness, including the rights to security of person,³⁸ and freedom from cruel, inhuman, and degrading treatment (CIDT).³⁹ The Human Rights Committee explicitly linked the prohibition against CIDT to the criminalization of homelessness in the U.S., noting that criminalizing eating, sleeping, and sitting in certain areas “raises concerns of discrimination and cruel, inhuman or degrading treatment.”⁴⁰ Criminalization further places law enforcement as front-line responders to homelessness, all too often resulting in violations of physical integrity that have

³³ U.S. Interagency Council on Homelessness, *supra*, note 26, at 28.

³⁴ *Id.*, at 20.

³⁵ *NCHJ calls on the Biden-Harris administration and Bowser administration to immediately halt plans to forcibly remove unhoused people in McPherson Square*, NATIONAL COALITION FOR HOUSING JUSTICE (Feb. 13, 2023), <https://nchj.org/national-members-of-the-national-coalition-for-housing-justice-nchj-call-on-the-biden-harris-administration-and-bowser-administration-to-immediately-halt-plans-to-forcibly-remove-unhoused-people-in/>.

³⁶ Community Partnership, 2022 Point-in-Time Count (2022), <https://community-partnership.org/homelessness-in-dc/#pit-dashboard>

³⁷ Marissa Lang, *Two-thirds of McPherson Square homeless remain on street, D.C. says*, WASHINGTON POST, (Feb. 16, 2023), <https://www.washingtonpost.com/dc-md-va/2023/02/16/dc-mcpherson-square-homeless-hearing/>.

³⁸ ICERD, *supra* note 8 at art. 5(b) (“The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution. . .”).

³⁹ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *ratified* Oct. 21, 1994, 1465 U.N.T.S. 85, 113; International Convention on Civil and Political Rights, art. 7, *ratified* June 8, 1992, 1996, 999 U.N.T.S. 171 (“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.”).

⁴⁰ Hum. Rts. Comm., *Concluding observations on the fourth report of the United States of America*, ¶ 19, U.N. DOC. CCPR/C/USA/CO/4 (2014).

a disparate impact by race,⁴¹ like the La Jolla, California police officers who tackled and beat Jesse Evans, a homeless Black man who needed to urinate in the absence of adequate public toilets.⁴² However, while viral video incidents like this draw attention, because most jurisdictions do not require law enforcement to collect use-of-force data disaggregated by housing status, the full extent of the problem is not known. The George Floyd Justice in Policing Act would, for the first time, require the collection of housing status data among others in use of force incidents, but it is stalled in the U.S. Senate.⁴³

11. Moreover, criminalizing life-sustaining activities violates the right to freedom of movement of people experiencing homelessness.⁴⁴ Some cities implement “move along” orders, where people experiencing homelessness are forced to leave the area just because they are present.⁴⁵ In New York City, people have been ordered to move multiple times in one day, with some stating that they are forced to move every thirty to forty-five minutes.⁴⁶ In a survey of 400 people experiencing homelessness in Denver, Colorado, 57% were approached by police for camping and more than 80% were forced to relocate.⁴⁷ In a similar survey of 350 people in San Francisco, California, 70% were forced to move in the last year and 20% were forced to move on a weekly basis.⁴⁸ Further, punishing people for essential activities, such as camping, lying, sitting, or sleeping in public places, is one of the most extreme forms of restraining freedom of movement.
12. Criminalization perpetuates homelessness by trapping people in a cycle of poverty. The many fines and fees associated with the criminal justice system make it harder for people experiencing homelessness to pay for food or medication and can lead to their incarceration if they are unable to pay.⁴⁹ Having a criminal record can then prevent people from passing background checks for housing and employment,⁵⁰ making it even harder to get off the street and out of poverty. The UN Special Rapporteur on extreme poverty highlighted this in his visit to the U.S., noting that “unpayable fines and the stigma of a criminal conviction . . . virtually prevents subsequent employment and access to most housing.”⁵¹ In fact, USICH recognizes that “criminalization creates

⁴¹ Comm. Against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, *Concluding observations on the combined third and fifth periodic reports of the United States of America*, ¶ 26, U.N. Doc. CAT/C/USA/CO/3-5 (Dec. 19, 2014) (highlighting the disproportionate and increasing incidents of police brutality against people of color in the U.S.).

⁴² City News Service, *City Attorney Declines to Charge Homeless Black Man Beaten By Cops in La Jolla*, NBC SAN DIEGO (June 11, 2021), <https://www.nbcsandiego.com/news/local/city-attorney-declines-to-charge-homeless-black-man-beaten-by-cops-in-la-jolla/2629215>.

⁴³ H.R. 1280, 117th Cong. §223 (2021).

⁴⁴ ICERD, *supra* note 9 at art. 5(d)(i) (This article requires states “to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law . . .” including with respect to “[t]he right to freedom of movement and residence within the border of the State.”).

⁴⁵ *Fighting Illegal “Move Along” Orders*, PICTURE HOMELESS, <https://www.picturethehomeless.org/fighting-illegal-move-along-orders/> (last visited Nov. 4, 2021).

⁴⁶ *Id.*

⁴⁷ MADELINE BAILEY ET AL., NO ACCESS TO JUSTICE: BREAKING THE CYCLE OF HOMELESSNESS AND JAIL 3 (2020), available at <https://www.safetyandjusticechallenge.org/wp-content/uploads/2020/08/homelessness-brief-web.pdf>.

⁴⁸ *Id.*

⁴⁹ NLCHP HOUSING NOT HANDCUFFS, *supra* note 3, LCCR CITED IN PLAIN SIGHT, *supra* note 5.

⁵⁰ NLCHP RACIAL DISCRIMINATION, *supra* note 2.

⁵¹ Hum. Rts. Council, *Report of the Special Rapporteur on Extreme Poverty and Human Rights on His Mission to the United States of America*, ¶ 45, U.N. Doc. A/HRC/38/33/Add.1 (May 4, 2018).

a costly revolving door that circulates individuals experiencing homelessness from the street to the criminal justice system and back.”⁵²

“It’s very expensive to be poor.”⁵³

David Peery, Miami Coalition to Advance Racial Equity

13. The criminalization of homelessness is also expensive. For example, a study in Los Angeles found the city spent \$100 million each year on homelessness, but \$87 million of that went to law enforcement while only \$13 million went to housing or other services.⁵⁴ A study conducted by Creative Housing Solutions on behalf of the Central Florida Commission on Homelessness found that providing housing to half of Central Florida’s chronic homeless population would save taxpayers at least \$149,220,414.⁵⁵ In Miami, the city spends \$70,000 per month on community policing, which targets homeless encampments in street sweeps, rather than providing an avenue to permanent supportive housing.⁵⁶

“Criminalization is an expensive way to make homelessness worse.”⁵⁷

David Peery, Miami Coalition to Advance Racial Equity

Recommendations

1. On the mission to the U.S., the Expert Mechanism should:
 - i. Meet with unhoused homeless persons and visit encampments in coordination with local advocates to hear directly from them about the criminalization of homelessness and its racial impacts. The report authors can refer you to excellent contacts to host visits in Miami, FL, Washington, DC, and many other cities, including Austin, TX, Kansas City, MO, Los Angeles, CA, Nashville, TN, New York City, NY, and Phoenix, AZ.
 - ii. Meet with federal government representatives with the U.S. Interagency Council on Homelessness, Department of Housing & Urban Development, Department of Interior, and National Park Service and ask why they did not follow their own Federal Plan to End Homelessness and advance racial equity by ensuring federal agencies do not participate in forced evictions of homeless encampments unless each resident is transitioned to adequate housing, and what steps they will take to implement their Plan and ensure no agency does so.
 - iii. Meet with state and local government representatives and law enforcement and ask about the intersecting racial and housing status demographics of their jail and prison population and what steps they are taking, if any, to decrease the racially disparate impact of law enforcement involvement in addressing homelessness.

⁵² U.S. INTERAGENCY COUNCIL ON HOMELESSNESS, SEARCHING OUT SOLUTIONS: CONSTRUCTIVE ALTERNATIVES TO THE CRIMINALIZATION OF HOMELESSNESS 7 (2012),

https://www.usich.gov/resources/uploads/asset_library/RPT_SoS_March2012.pdf.

⁵³ Interview with David Peery, *supra* note 29.

⁵⁴ Gale Holland, *L.A. spends \$100 million a year on homelessness, city report finds*, L.A. TIMES (Apr. 16, 2015), <https://www.latimes.com/local/lanow/la-me-ln-homeless-cao-report-20150416-story.html>.

⁵⁵ CENT. FLA. COMM’N ON HOMELESSNESS, THE COST OF LONG-TERM HOMELESSNESS IN CENTRAL FLORIDA 8 (2014), <https://shnny.org/uploads/Florida-Homelessness-Report-2014.pdf>.

⁵⁶ Interview with David Peery, *supra* note 29.

⁵⁷ Interview with David Peery, *supra* note 29.

2. Following the mission the Expert Mechanism should recommend that the U.S.:
 - i. Require local law enforcement agencies to **collect, disaggregate, and share data on housing status** of persons stopped, ticketed, arrested, jailed, convicted, and used force against by law enforcement, along with intersections with race.
 - ii. Implement strong **financial and legal incentives for local authorities to decriminalize homelessness and life-sustaining activities** in public and **redirect funding from criminal justice responses** to Housing First approaches, crisis response teams with mental health, harm reduction, and other psychosocial service expertise, and non-congregate, trauma-informed shelters with supportive services. Trauma-informed, non-congregate shelters should serve as *temporary* residences and an entryway to rehousing as the ultimate goal.
 - iii. Implement policies with all federal law enforcement agencies to ensure their **agencies do not participate in encampment evictions unless adequate housing is first provided** to all encampment residents, in line with the Federal Strategic Plan to End Homelessness.
 - iv. Take **strong enforcement action** against communities that use law enforcement to criminalize homelessness and violate the rights and dignity of persons experiencing homelessness, including addressing the racially disparate impacts.
 - v. **Recognize and implement the human right to adequate housing** to prevent Black persons from being subjected unnecessary police encounters, tickets, fines, fees, arrests, incarceration, and abuse.